

REPORT

The Maryland Tax Revision
Commission

REPORT TO THE GOVERNMENT OF MARYLAND

FOR THE YEAR 1965

DRAFT OF A TAX REVISION BILL

BY THE COMMISSIONERS

ALFRED W. BARNETT, Chairman

CLAYTON GIBSON

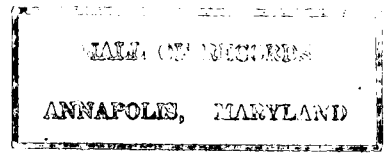
THOMAS H. GIBSON, Secretary

CHARLES C. WATKINS

EDWARD M. WATKINS

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REPORT



OF

**The Maryland Tax Revision
Commission**

Appointed under the Act of 1927, ch. 687.

TOGETHER WITH A

DRAFT OF A TAX REVISION BILL

December 1, 1928

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ARTHUR W. MACHEN, JR., *Chairman*

HARRY E. GILBERT

PHILLIPS LEE GOLDSBOROUGH

CHARLES C. WALLACE

F. BROOKE WHITING



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REPORT OF MARYLAND TAX REVISION COMMISSION.

DECEMBER 19TH, 1928.

To His Excellency the Governor of Maryland—

YOUR EXCELLENCY:

In obedience to the direction of the General Assembly, as embodied in the Act of 1927, ch. 687, pursuant to which we were appointed, and following up our Preliminary Report, submitted on June 19, 1928, we, the Maryland Tax Revision Commission, beg leave to report the following results of our labors and the accompanying draft of a Tax Revision Bill, with the recommendation that, as authorized by the Act of 1927, you submit the same to the General Assembly of 1929, composed, as chance will have it, of the same men who authorized our appointment and under whose mandate we have endeavored to act.

We have found the tax laws of the State, as now administered and enforced, upon the whole satisfactory in substance, and it is accordingly our intention to recommend few, if any, radical changes in substance. But combined with this not unsatisfactory substance of the law—at least of the law as actually enforced by (upon the whole) pains-taking and sincere officials,—we have found the most execrable confusion of form. The tax laws are in such a state that no one but a trained lawyer can possibly even conjecture from a reading of the statutes what the law as written is. Frequently, the statutes are quite unintelligible even to a lawyer, until he has sought the illumination of the interpretative decisions of the Court of Appeals, and even then he will often be left in doubt. And even after, as a result of laborious research, he has convinced himself of what the law as written is, he is frequently no whit nearer learning what is the law as actually enforced and applied. For the State Tax

Commission, and the subordinate tax officials, wisely endeavoring to temper with reason and justice the rigor of ancient and harsh statutory provisions, have in many cases built up a kind of customary law which is not reflected on the statute books.

The condition thus created is a great handicap to the commercial development of the State. It is vitally important that any new industry contemplating locating or incorporating in Maryland should be able to understand and be assured of the tax laws of the State. It is small satisfaction to the owner of such an industry to be told that while the tax laws of the State, as they stand upon the statute books, are in inextricable confusion and uncertainty, the officials intrusted with their administration have worked out a system which is on the whole just and equal. They want to choose a State whose laws are not merely just in actual operation, but clear. They prefer a State whose laws they can read and understand.

I.

Primary Object of Revision.

Our primary object, therefore, has been to recodify in some intelligible form the present confused jumble of antiquated, obsolete, ambiguous, inconsistent, redundant and unintelligible statutes, with as few changes in substance as possible. Even where we have felt that the existing law is unreasonable or unwise, we have in general preferred to bear the ills we have rather than to fly to others we know not of. We have preferred to repeat provisions of existing law rather than to attempt to perfect them; where the improvement would probably arouse opposition or excite suspicion. We have felt that a great presumption exists in favor of the existing law, and that only for the most cogent reasons—reasons so strong as to command, we hope, the approval of all thinking men—should any change in the substance of the existing law be embodied in our draft.

State Income Tax Disapproved.

While the above is true, we desire to record our belief that the existing law is as a whole not unsatisfactory in substance, and requires no radical change. For example, our predecessors, the Commission authorized by the Act of 1922, Ch. 427, reported in favor of a radical change in our tax system by the introduction of a State income tax instead of our present system of property taxes, which has been in force, with divers modifications, ever since the adoption of the Constitution of 1776. We are opposed to any such innovation. We believe that a State income tax in Maryland would be wasteful, inefficient and unwise. An income tax, modelled on the Federal system of progressive taxation, would probably require a constitutional amendment, and as such would be beyond the scope of the authority reposed in us by the General Assembly of 1927; for we were appointed to revise the statutes and not the Constitution of the State. But apart from this more or less technical point, we do not favor an income tax in this State.

Union of Tax Laws in One Article of Code.

As stated in our preliminary report, we believe that simplicity and convenience will be subserved by having the law, so far as may be, in a single article of the Code. We have, therefore, removed to Article 81, entitled "Revenue and Taxes," some important provisions on the subject of taxation which are now found in other articles, notably in Article 23, entitled "Corporations." Conversely, we have transferred from Article 81 to other articles of the Code certain provisions which have no direct connection with the subject of taxation. Even so, it is not possible to present a draft of Article 81 which will contain literally all the public general laws dealing with taxation. For instance, all license taxes are found in Article 56, entitled "Licenses," and the prem-

ium tax on insurance companies is found in Article 48A entitled "Insurance." So, too, the gasoline tax, which we have felt to be too controversial a subject for us to touch, will still be found in Article 56.

Omnibus Clause Removed.

Some changes in the law which at first may appear to be changes in substance will be found on more careful examination to be mere changes in form—merely a restatement of the existing practice.

For example, the present law after setting forth a long list of various kinds of property which are subject to taxation, provides that all other property in the State shall be subject to taxation. This general clause, inserted out of abundant caution, has been a frequent breeder of litigation; but the courts, very naturally and properly, have evinced a strong disinclination to apply it. For instance, notwithstanding this clause, the Court of Appeals has held that a seat on a stock exchange or money in bank is not taxable. We have therefore felt that much confusion and uncertainty would be avoided by the elimination of this general clause, with little or no alteration in the substance of the law. This plan also makes for simplicity by permitting a reduction in the list of exempt property—even so, long enough, in all conscience. Thus, in consequence of the omission of the general clause, it is no longer necessary to specify expressly that shares of stock in ordinary business corporations incorporated in this State, or mortgages on Maryland real estate, shall be exempt; for they are not covered by any of the categories of taxable property, so that it is unnecessary to exempt them.

Repeal of Tax on Notes of Individuals.

Code, Art. 81, Sec. 218, purports to impose a tax at the full State, county and city rates on "certificates of indebtedness" of individuals and firms held by residents of this

State, though the assessment is to be arbitrarily fixed at 50% of the face value for those bearing 6% interest, and to be correspondingly reduced in case the rate of interest is less.

This tax has never been actually enforced except sporadically. At present, it is little more than an instrument of extortion. In order to be true to our principle of codifying the law as enforced rather than the law as written, we must recommend the repeal of this tax. Moreover, the tax is absurd. It is ridiculous to tax a note if it be unsecured but to exempt it from tax if it be rendered more valuable by being secured by a mortgage of Maryland real estate. We have, therefore, had no hesitation in removing from the statute books this absurd and practically obsolete provision. It is not necessary to specify that notes of individuals shall be exempt from tax because of the elimination of the omnibus clause and of the fact that such notes are not mentioned in Section 6 of our draft as subject to tax.

Tax on Foreign Mortgages.

According to the theory of our present law, mortgages on property in whole or in part located outside of Maryland and owned by residents of this State are taxable at the full State, county and city rates. Of course, this confiscatory tax is practically never collected. Instead, the State Tax Commission has indulged the fiction that all such mortgages are by corporations, and therefore taxes them at the securities rate of 45 cents like corporation bonds. Indeed, this equitable result is worked out by a double fiction—not merely the fiction that all such mortgages are made by corporations, but also the fiction that they are marketable securities. For it is, of course, perfectly clear that the securities tax of 45 cents is applicable only to corporate securities—bonds, notes and the like,—which are either quoted on a stock exchange or capable of being so quoted and dealt in, and was never intended to apply to mortgages by a corporation of a specific

piece of land, resembling in all respects ordinary mortgages by an individual.

At all events, according to our principle of codifying the law as enforced rather than the law as written, we have no hesitation in providing that mortgages on property outside of Maryland, or partly outside and partly within the State, shall, if owned by residents, be taxable to them at the rate of 15 cents for State taxation and the rate of 30 cents for county or city taxation.

Mortgage Tax Repealed.

In pari materia, though not quite an application of the same principle as that set out in the last paragraph, is the repeal of the mortgage tax, which our draft recommends. This mortgage tax, applicable to mortgages in Maryland, was originally of State-wide application. County by county, it has now been repealed throughout the State, except in Frederick County. In other words, it has become a mere local law applicable to Frederick County. We have, therefore, had no hesitation in removing it from the Code of Public General Laws. If the people of Frederick County desire to retain it, the proper method of doing so is by an amendment to their public local laws. No doubt, the General Assembly at the instance of the Frederick County delegation would be ready and willing to pass such a local bill.

Statutory Definitions Followed.

Article I of the Code provides certain rules of construction, such as, the singular shall include the plural, the masculine shall include all genders, executor shall include administrator, person shall include corporation, and the like. Not all of these rules, which are intended to permit of a condensation of statutes, are followed in succeeding Articles of the Code with any approach to consistency. We have, however, tried to observe them; and for the sake of clarity and

further brevity have repeated some of them in somewhat more emphatic form as applied to Article 81, and have added a number of statutory definitions of our own, which, of course, are applicable only to Article 81. In spite, however, of the definition of "county" in Article I, sec. 14, as including the City of Baltimore, we have made no effort to follow that rule. We do not mean to say that in our draft "county" *never* includes the City of Baltimore, but in general we have followed popular rather than legal usage according to which the counties are distinguished from the City of Baltimore.

Uniform Tax Year and Date of Finality.

It would be impossible to reduce to any co-ordinated system the existing mass of confused tax laws unless a uniform tax year should be established throughout the State. At present, the levy-dates and dates on which the taxable status becomes fixed for the ensuing year, vary in almost every county. In some counties, there seems to be great doubt and difference of opinion as to the date on which county taxes are first payable or in arrears, and as to the beginning and the end of the tax year.

In Baltimore City since 1898 local taxes are levied for the calendar year, and the taxable status is fixed on, or as of, the preceding first day of October. In Baltimore County since 1920, and in Harford County since 1922, the county taxes are now likewise levied for the calendar year, but the taxable status is determined on, or as of, the first of the preceding Oct. 15th or Nov. 1st. The result is that if a man changes his residence from Harford County or Baltimore County to Baltimore City, on October 2nd, he would escape all taxation on his securities for the ensuing year. Conversely, if he should move to Harford County or Baltimore County from Baltimore City on October 2d he would legally be liable in both jurisdictions for the taxes for the ensuing calendar year. Indeed, by moving from county to county fast enough, a man could always escape all taxes on per-

sonalty; and, conversely, if he should move in the wrong direction or at the wrong dates, he might be legally liable many times over for the same period. Everybody must recognize the impropriety of such a condition, and the imperative necessity of correcting it.

As State taxes are levied for the calendar year throughout the State, and as city and county taxes are now levied for the same period in Baltimore City and in Harford and Baltimore Counties, and perhaps in some other counties, while there is great diversity among the other counties, and in some of them even actual uncertainty, as to the period for which the taxes are levied, there can be little doubt but that all county or City taxes, like State taxes, should be levied for the calendar year.

The date of finality must be at least two or three months prior to the beginning of the year for which the taxes are levied, unless the due date of the taxes is to be postponed for some time after the beginning of the calendar year, which would probably cause considerable inconvenience in Baltimore City and in Baltimore and Harford Counties, by reason of the postponement of the tax collections. Accordingly, we have provided that October 1st of the year preceeding that for which the taxes are levied shall be throughout the State the date of finality, as of which the taxable status shall be ascertained, with a flexible provision to cover cases of abnormal prices or similar hardship.

This, of course, necessitates in some cases fractional levies of county taxes for a portion of a year during the period of readjustment, and to make the procedure simpler it is provided that in case any such fractional levy is necessary, the County Commissioners may in their discretion add the same to the levy for the next succeeding calendar year, so as to make one consolidated levy for a year and a fraction. It is believed, however, that this expedient will rarely be resorted to, as the experience of Harford and Baltimore Counties, both of which have recently changed from a fiscal year to a

calendar year basis, has proved that the change can be made without confusion or complaint.

The levy is to take place as soon as practicable after the date of finality, but in any event before the first day of the year for which the taxes are levied.

Automatic Levy of State Taxes.

The present law requires the County Commissioners of the several counties, and the Mayor and City Council of Baltimore, to go through the form of passing annually resolutions or ordinances levying State taxes at the rates prescribed by the General Assembly upon the assessments subject thereto. The duty of the County Commissioners and the Mayor and City Council of Baltimore in this matter is purely ministerial, as the property or assessments on which the tax is levied and the rate of tax thereon are fixed by the General Assembly, either at the general rate of State taxation for the year or at any special rate applicable to the particular property affected, such as the 15 cent rate on securities. Not a particle of discretion is vested in the County Commissioners or in the Mayor and City Council. Elaborate statutes provide for special boards to go through this solemn ceremony of levying State taxes in case the County Commissioners should fail to perform their duty of levying them.

Of course, the whole procedure is complicated and unnecessary. The State of Maryland does not need the aid of its creatures, the County Commissioners or the City of Baltimore, in order to levy its taxes. The procedure probably developed from a time when the levy fixed the property subject to assessment,—in other words, when the levy date was the date of finality. But as a fixed and uniform date of finality is now fixed by statute, we see no conceivable reason why the law should not provide that State taxes shall be levied thereon automatically at the rate prescribed by law.

With respect to local taxes, except those for which the law prescribes a fixed rate, such as the 30 cent rate on securities, there is still a necessity for something in the nature of a levy by the County Commissioners or Mayor and City Council of Baltimore; for they must perform a discretionary function of the greatest importance—namely, to fix the rate of taxation.

Fixing of State Tax Rate.

Heretofore, the State tax rate has been fixed by a section of the Code; and, as the rate of course varies from year to year, and from one session of the General Assembly to another, it has been necessary to repeal and re-enact this section with amendments at each session. This procedure seems cumbersome and confusing, as a purely temporary act appears as part of a permanent Code. We have accordingly eliminated this section from our draft of Article 81, and recommend that hereafter the State tax rate be fixed by a bill not enacted as part of the Code, but as an independent measure like the annual appropriation act.

Uniform Due Dates, Discount and Interest.

Similar considerations to those which render advisable a uniform tax year throughout the State also render advisable a uniform due date and uniform provisions for discount or interest. At present, State taxes are throughout the State payable without interest at any time during the year for which they are levied, after which they bear interest at 6%; and the greatest possible diversity and confusion exists as to the dates on which county or city taxes are payable and as to discount therefrom or interest thereon.

A considerable body of thoughtful opinion throughout the country is against the allowance of tax discounts. But we do not regard the matter as of vital importance; and as many taxpayers in certain parts of the State have been accustomed

to discounts, we have felt that their sudden abolition might be regarded as a hardship, while their introduction in localities where they have not heretofore been granted would not be objected to—particularly if the discounts be moderate in amount so that no appreciable effect on the revenue would be produced.

We have accordingly provided that all county and city taxes, after the new system goes fully into effect, shall be payable on or after January 1st of the year for which they are levied, and shall carry interest after July 1st of that year, and that for payment between March 1st and July 1st a discount of one-quarter of one per cent. a month—*i. e.*, at the rate of 3% per annum—shall be allowed. State taxes are to be payable at the same times and carry the same interest but without discount.

Dual Assessments Abolished.

Under the present laws, some cities and towns in the various counties are allowed to and do make assessments for municipal purposes varying from the assessments on which State and county taxes are levied. A more absurd condition cannot well be imagined. The same property cannot have two different values at the same time.

We have accordingly provided that all State, county and municipal taxes shall be levied upon assessments made as provided in this article. In order to avoid any injustice to any city or town which thinks either that any taxable property is omitted from the county assessment or that the county assessment upon any property within the city or town is too low, full right of appeal from the county assessment is given to such city or town.

Distrain for Taxes Abolished.

At present, in legal theory, taxes on either real or personal property may be collected by distraint upon any personalty.

In practice this harsh procedure by distraint is fortunately obsolete, but it is legally possible. We see no reason why in this day and generation it should be allowed. The experience of our State has demonstrated that it can be allowed to fall into desuetude without impairing the efficiency of the State and municipal governments.

Collection by Suit or Attachment.

The present law contains numerous, partially redundant and partially inconsistent, special provisions for collection of taxes by suit against the person or corporation liable therefor; and even where no such special provision is found, a suit at common law may be maintained. We have provided expressly that all taxes may be collected by action of assumpsit, and have outlined any special proceedings in such action, but have omitted as unnecessary any provisions for suits to collect particular kinds of taxes.

As we are abolishing distraint for taxes, we have inserted a provision that any suit for collection of taxes may be begun by attachment against the lands, chattels or credits of the delinquent, as if the defendant were a non-resident. This provision may be used advantageously wherever it is apprehended that the defendant may make way with his property.

Tax Sales.

The provisions as to tax sales are now largely different in each county and in the City of Baltimore. There is no reason why one uniform procedure should not be used throughout the State, and every possible reason in favor of such a procedure.

We have, therefore, entirely rewritten the provisions relating to tax sales, and have endeavored to provide a uniform and equitable procedure for the entire State. Our first and fundamental object is to make sure, so far as humanly possible and as consistent with the interest of the public, that no

landowner should have his property sold for taxes over his head without actual and not merely constructive notice. Our second and subsidiary object is to provide a procedure that will give a good title to the purchaser, and thus enable a fair price to be obtained, and also prevent the land sold from being rendered unmarketable.

Repeal of Arbitrary Penalties.

We have endeavored to eliminate, so far as possible, all harsh and unreasonable penalties and forfeitures having no relation to the gravity of the offense.

Consolidation of Penal Clauses.

The existing law contains numerous provisions prescribing varying penalties for various violations of the revenue laws, such as failure to make required reports, false or inadequate reports, or the like. We have thought that brevity and harmony would be subserved by consolidating all penal provisions in a few sections of the law, and have accordingly tried to do so.

Limitations.

The present general law prescribes no period of limitations for State taxes, although the lien of certain State taxes expires after the lapse of specified times. Statutes of limitations rest upon demonstrated principles of public policy favoring peace and any existing status, and discouraging stale claims. There is no reason why the State should be exempt from principles of justice and public policy which it prescribes for others. On the contrary, there is every reason why, being itself "the fountain of justice," it should also be the model of justice. We have accordingly provided that all taxes without exception must be collected within four years from the time they fall due, except of course in cases of fraud.

Appeals to Court.

In our preliminary draft, we changed the law as to appeals from the State Tax Commission by allowing an appeal to court on both questions of law and of fact, instead of on questions of law only as at present, and we provided that the lower court, and, on appeal, the Court of Appeals, should not merely find whether or not the assessment appealed from is erroneous, but should ascertain and enter the correct valuation and assessment. Further consideration and conferences with the State Tax Commission have convinced us that this plan might be open to the constitutional objection of imposing non-judicial duties on the courts, and is otherwise inexpedient at the present time. But we remain convinced that the plainest principles of justice require at the instance of the citizen a court review of administrative rulings, and that we ought not to depart from that principle.

Accordingly the present draft allows an appeal to court from all final orders of the State Tax Commission on questions either of law or of fact; but we have provided that if the court finds error either of fact or of law, it shall not be required to ascertain and enter the correct valuation and assessment, but shall remand the proceeding to the State Tax Commission for correction, by way of a new trial, of any error that may have been found. From the Circuit Court an appeal similarly lies to the Court of Appeals. This procedure protects the citizen in his fundamental rights, avoids any constitutional difficulties, and at the same time is not open to the objection of disturbing in any way the equalization of assessments in different parts of the State—an equalization the attainment of which was one of the chief purposes of creating the State Tax Commission.

We have applied the same procedure not merely to the ordinary case where the State Tax Commission acts in appellate capacity in hearing appeals from the County Commissioners and the Appeal Tax Court, but also to cases where the Commission exercises original jurisdiction, as in assessing shares of stock in banks and similar corporations, com-

puting the gross receipts tax, etc. At present, the only appeal, if any, in such cases lies to the Comptroller and the Treasurer, who, of course, are not equipped to act in this quasi-judicial capacity. In such cases, as already mentioned, we have provided for the same appeal to court as in cases where the State Tax Commission has exercised its function of reviewing assessments made by the County Commissioners or Appeal Tax Court.

In some cases, as where the property lies or the taxpayers reside in more than one county, there is at present occasional uncertainty as to the proper court to which to appeal from the State Tax Commission. We have, therefore, provided that at the election of a taxpayer appealing, the appeal may be taken to the Circuit Court of the County or Baltimore City where the property or some part thereof is situate, or of the residence of the taxpayer subject to a tax in respect thereto, or where the office of the State Tax Commission is situate.

Tangible Personal Property of Maryland Business Corporations.

Under the present law, tangible personal property of ordinary business corporations organized under the laws of Maryland is assessed annually by the State Tax Commission, and the assessment is apportioned between the counties and cities in which the stockholders reside, and taxed in those counties and cities and at the rate there prevailing. This provision was introduced when, in 1914, the great reform was effected of taxing Maryland ordinary business corporations on their taxable property instead of on the value of the shares of their stock. It was then proper, as a means of easing down the reform, particularly because many business corporations whose stock was owned by residents of Baltimore County carried on business in Baltimore City and there owned tangible personal property upon which,

indirectly through the tax on their shares of stock, they had been accustomed to pay taxes at county rates. The condition which justified this provision of law has now passed away, in consequence chiefly of four circumstances.

In the first place, the annexation to Baltimore City in 1918 of large sections of Baltimore and Anne Arundel Counties, in which the great majority of the persons for whose benefit the act was passed resided, has eliminated the chief reason for its existence.

In the second place, the great industrial development of the counties, largely in consequence of capital furnished by residents of Baltimore City, has virtually equalized if it has not reversed the situation. There are now almost, if not quite, as many persons residing in Baltimore City owning stock in Maryland business corporations whose tangible assets are situated in the counties as there are residents of the counties owning stock in Maryland business corporations whose tangible personal property is situated in Baltimore City.

In the third place, the change in the law in Baltimore City exempting from local taxation raw materials and manufactured products of Maryland corporations has greatly reduced the number of corporations who, or whose stockholders, would be substantially affected by taxing such property where it is situated—according to the spirit of our Constitution—rather than where the several stockholders reside.

Perhaps, most important of all is the fact that under the existing law tangible personal property of Maryland business corporations is assessed by the State Tax Commission, and must continue to be so assessed as long as the present method of apportionment according to the residence of the stockholders continues, whereas the same kind of property, owned by the same kind of corporation incorporated in some other State, or owned by an individual or partnership, is assessed by the local authorities. Moreover, the assessments made by the local authorities against individuals, firms and foreign

corporations are generally revised but once in five years, while those made by the State Tax Commission against Maryland corporations are always revised every year. The result is a most unfortunate inequality of assessment, and discrimination against our own corporations, which undoubtedly ought to be wiped out. It is no answer to say that the assessments by the State Tax Commission are higher and more nearly represent actual values than those of similar properties made by the local authorities. That circumstance, if true, is an additional reason for confiding to the local authorities the assessment of tangibles owned by Maryland corporations. In such a matter equality is more important than accuracy. The ideal situation is for everybody to be assessed at the full value; but it is better for everybody to be assessed at less than the full value than for some concerns to be assessed at the full value while rivals are assessed at less.

The abolition of the system of apportionment would under present conditions produce no substantial readjustment of revenues as between the counties and the City of Baltimore, or among the counties themselves, and after careful consideration we have determined that the change is not of so substantial a character that we ought to refrain from embodying it in our draft.

II.

The departures from existing law enumerated above are almost all in matters of procedural or adjective law, and do not seriously affect the incidence or the ultimate burden or amount of the tax. A few changes of a more substantial character, we have been unable to refrain from making.

Guarantee and Insurance Companies.

The present method of taxing fidelity, guarantee, and other insurance companies having a capital stock incorporated under the laws of Maryland makes it virtually impossible for

any such corporation to be organized under our laws. The result is that for years practically no such corporations have been formed in this State. Time and again, Maryland capital has been driven to incorporate such companies in other States. To be sure, we still have three or four great surety companies which were incorporated in Maryland in early years before other States had adopted their present wisely liberal laws, or before the burden of the Maryland laws was so clearly recognized. From these few corporations, the State and some of its political subdivisions derive a considerable revenue; but in our judgment this revenue is dearly bought by the people of Maryland. Not only is there the certainty that until our laws are changed no new corporations of this class will ever be incorporated in Maryland, but there is the ever-present danger that the few such corporations which we still have may throw sentiment to the winds, and decide to reincorporate elsewhere, with a consequent sudden and total loss of the revenue thus derived.

The extent to which our laws discriminate against our own corporations is shown by the fact that in 1927—the last year for which complete figures are available—the three Maryland surety companies paid, for account of their shareholders, to this State and its several counties and cities in taxes on their shares of stock no less than \$860,000, whereas, if they had been incorporated in any other State, less than \$210,000 would have been payable. Such a situation is intolerable. It is unthinkable that the State of Maryland containing one of the greatest commercial cities in the country, and such smaller but still active commercial centres as Cumberland, Hagerstown, Frederick and Salisbury, should consent any longer to remain in this financial strait-jacket.

So great is this evil that in order to remedy it we have determined to make an exception to our rule of advocating no considerable changes in the substance of the tax laws.

The Legislature of 1927 wisely attempted to reduce the

evil by fixing special rates of county or city taxes on the shares of such corporations lower than the general tax rate. But such remedies are palliative merely. No remedy is satisfactory which will not wipe out the discrimination against our own corporations, and make certain that no such corporation will be worse off by being incorporated in Maryland rather than in some other State. We are not interested in affording "relief" to the corporations affected against excessive taxes—which could be readily done, for example, by reducing their rate of tax; but we are vitally interested in affording relief to the people of Maryland from the terrible handicap to business caused by our existing laws as to our own corporations of this kind.

We have accordingly provided *at once* as to any corporation of this class organized after January 1, 1929, that the taxes shall never exceed the taxes which would be payable if the corporation were organized under the laws of some other State.

As to existing corporations of this class, we have not thought it fair to introduce the reform all at once, but have spread it over a period of years until 1933. The plan we have adopted will result in an actual increase in the revenues of the State from the existing corporations, and we estimate that never will the revenue to the State from these corporations be substantially less than it was for the year 1928. There will be, perhaps, until 1933 a gradual reduction in the revenue derived from this source by the City of Baltimore, and to a lesser extent by some of the counties. But we believe that the loss will be more than offset by the revenue from new incorporations which would otherwise be formed under the laws of other States as well as by the increased commercial activity which the reform should stimulate, to say nothing of eliminating all possibility of a sudden complete cessation of the revenue from this source by our few existing companies re-incorporating under the laws of some other State.

The beneficial effect of the reform can be illustrated by the fact that already the president of a large insurance company recently organized by Maryland capital under the laws of New York, has stated that if our proposed bill is adopted he will surrender his New York charter and incorporate in Maryland.

The plan we have decided to recommend provides in brief for taxing domestic surety and insurance companies on their holdings of taxable securities, including bonds, stocks in foreign corporations, and mortgages on real estate outside of Maryland, at the same rate which such securities would pay in the hands of individuals. This rate of course is much lower than the rate now payable on shares of such corporations; but the diminution in revenue would be much less than the reduction in rate would indicate, because the basis would be much higher by reason of the large investments in such securities which corporations of this class carry in reserve funds, which are only to a limited extent inflated in the value of their shares of stock.

Moreover, the basis will in all probability grow with great rapidity. Thus the increase in the securities held by the largest Maryland companies of this class increased during the years from 1918 to 1922, inclusive, at the rate of 22.6% per annum, during the years 1923 to 1927, inclusive, at the rate of 13.6% per annum, and during the first eleven months of 1928 at the rate of 13.6% per annum. We have therefore felt it safe to assume that in the next five years the holdings will increase at a rate of not less than 12% annually.

In order to preclude any possibility of an evasion of the tax by investment in tax-exempt securities—although we do not ourselves believe that this danger would be as real as some persons fear—we have provided that if less than 60% of the total securities held by any such corporation is invested in taxable securities, the deficiency shall be made up with cash, accounts receivable, etc., which are constitutionally taxable in Maryland, but not ordinarily included in the tax-

ing statutes, so that the total assessment will never be less than 60% of the value of all the securities held by such corporation.

If we stopped here, it would be not disadvantageous for any such corporation to be incorporated in Maryland, provided a large proportion of its stock is held by Marylanders; and there would be no longer reason to fear lest any of the existing Maryland companies, about two-thirds of whose stock is held by residents of Maryland, should decide to reincorporate elsewhere—at least, unless their proportion of resident stockholders should diminish. But, on the other hand, there would not only be no incentive to outside capital to incorporate in this State, but a strong deterrent to any such action; for they would have to pay the Maryland tax on the securities owned by such corporation, and in addition the stockholders would have to pay taxes on the value of their shares in the States of their residence. The result would be that while Maryland capital when organizing corporations of this class would no longer be driven to incorporate in other states, no foreign capital would be likely to incorporate in this State. We should, therefore, feel that our task of removing the existing discrimination against Maryland corporations had been only half-performed.

We have, therefore, provided that the assessment shall never exceed the value of the shares of the corporation held by residents, so that the taxes payable by the corporation to the State of Maryland and its various political subdivisions can never be more than if the company were a foreign corporation. It has been suggested to us that this provision penalizes a Maryland corporation for having Maryland stockholders. Of course, this criticism is fallacious; the provision does not penalize a corporation for having Maryland stockholders, but rewards non-residents for investing in stock of Maryland corporations—surely, a consummation devoutly to be wished. This provision cannot reduce the revenue from the existing corporations unless either the value of their stock

should diminish or the proportion of stockholders residing in Maryland should decrease.

Our new plan will go into effect immediately as to newly formed corporations. This will involve no loss of revenue because unless the existing tax laws are changed no new corporations of this class, to amount to anything, will be incorporated in Maryland.

As to the existing corporations, the new plan will not go into full effect until 1933. Until then, the proviso that the assessment shall never exceed the full value of the shares of their stock held by residents of Maryland which would be taxable here if the corporations were formed under the laws of some other State will not be operative; and in any event this proviso will never in all probability affect these corporations unless the proportion of their stock held by residents of Maryland should diminish. Moreover, as to existing corporations we have provided that the State rate shall be reduced by 2 cents each year from 20 cents in 1930 to 15 cents in 1933 and all subsequent years; and that the rate of county or city taxation shall be reduced gradually from 75 cents in 1930 to the permanent rate of 30 cents in 1933 and subsequent years.

Assuming that the securities held by these corporations will increase at the rate of 12% a year—and in the past eleven years at least the ratio of increase has been considerably greater—and also assuming that no new corporations of this class will be formed in Maryland as a result of the change in the tax laws—which likewise we believe will be found an understatement of the case—even so, there will be an actual increase in the revenues of the State from this source, and only a very gradual diminution in the county and city revenue. While the rate will diminish from year to year the basis will increase. After 1933 the revenue both to the State and to its various subdivisions should increase each year.

In order to avoid disturbing the present distribution of

revenue from the tax on the shares of stock between the various cities and counties of the State, we have provided that as heretofore the taxes paid by these corporations for county and city purposes shall be apportioned between the various counties or cities, including Baltimore City, according to the residence of the shareholders.

Banks and Allied Institutions.

One embarrassment in any attempt to frame reasonable and just tax laws for banks and similar institutions, or indeed for any person in the State, is found in the provisions of U. S. Rev. Stat., Sec. 5219, as originally adopted and as amended from time to time. The section as it now reads is set forth in the latest amendatory Act of March 25, 1926, Ch. 88, 44 U. S. Stat. 223. The object of this section is commendable, namely, to prevent the business of national banks from being unduly burdened by hostile and discriminatory State taxes; but it is certainly less necessary than when it was originally adopted; for at that time the Fourteenth Amendment had not been adopted and the States were not prohibited from passing discriminatory laws. In Maryland, at least, there is not, at the present time, the slightest hostility to national banks, which all men recognize as performing absolutely indispensable functions in the business life of the community. If left to ourselves, there is not the remotest risk that any real discrimination would be practised on national banks or any undue burden imposed upon them.

Section 5219 of the Federal Revised Statutes as originally enacted provides that, save as to real estate, the property and shares of national banks shall be free from all State taxation, except that shares of stock in national banks may be taxed by the State in which the bank is situated, but by no other State, and that even the State in which the bank is situated may not tax the shares at any higher rate than other "moneyed capital" in the hands of individual citizens. It

was early held that "moneyed capital" did not mean banking capital only, but included any investments in securities or other property made in competition with national banks. The burden of this rule was not felt until the increasing complexity of modern industrial and commercial life necessitated not merely numerous exemptions from taxation, but also reduced rates on certain classes of intangible property.

In this State, the first and most conspicuous example of this class of reduced rates was the so-called securities tax of 30 cents on each hundred dollars of valuation on corporations bonds and on shares of stock in foreign corporations in lieu of the full county or city rate. The fairness of this tax, and its proved value as a revenue-producer have won for it the universal approval of our people. Nevertheless, the tax probably invalidated the tax on national bank shares, which continued to be taxed at the full city or county rate — in every case very much more than thirty cents; for national banks are authorized to hold corporation bonds and notes of all kinds, and so much of the value of their shares as represented investments in such securities continued to be taxed at the full county or city rate instead of the reduced rate of thirty cents. To be sure, the discrimination against national banks, if such it could be called, was less than the discrimination which had existed previously in practice though not in theory; for prior to this time corporation bonds and notes in the hands of individuals, although theoretically taxable at the full city or county rate, were in practice rarely taxed at all because the confiscatory nature of the tax deterred the tax officials from enforcing it. At all events, the late Judge Morris in the United States District Court, and the United States Circuit Court of Appeals at Richmond, sustained the validity of the tax, but upon grounds which can hardly be reconciled with later decisions of the Supreme Court and which were in part at least technical and due to a supposed defect of evidence in the particular case before the Court.

However, the validity of the statute was acquiesced in, and

indeed the validity of similar statutes throughout the country was acquiesced in, for a number of years. But in 1921 the Supreme Court in a case coming up from Richmond held a Virginia statute taxing national bank shares to be in conflict with Section 5219 of the Revised Statutes, upon grounds which made quite clear that neither the Maryland Statute nor the statutes of many other states could possibly be upheld (*Merehants National Bank v. City of Riehmond*, 256 U. S. 635). At once the taxing authorities of a score of states were thrown into a fever of excitement, and Congress was persuaded to amend Section 5219 of the Revised Statutes, by Act of March 4, 1923, c. 267 (42 U. S. Stat. 499), by providing that "notes, bonds and other evidences of indebtedness" in the hands of individual eitizens not employed or engaged in the banking or investment business and "representing merely personal investments not made in competition with such business" should not be deemed moneyed capital within Section 5219.

The amendment also provided that the State in which a national bank is located may either tax the shares or the dividends paid, or the income of the bank, but that any choiee of one of these three methods of taxation should prevent any resort even in part to one of the others. The amendment has not been directly before the Supreme Court, but that high tribunal has indicated that in its opinion the amendment so far as it relates to notes, bonds and other evidenees of indebtedness in the hands of individual eitizens not engaged in the banking business, and representing merely personal investments not made in competition with such business, should be construed as almost, if not quite, declaratory merely of the pre-existing law.

In the meantime, the powers of national banks have been extended so as to permit them to invest in mortgages and to act as trustee, and these extensions of power still further complicate the situation, and increase the difficulties of State

legislatures in trying to avoid the stumbling-block of U. S. Revised Statutes, sec. 5219.

At all events, fire and life insurance companies are now allowed to deduct mortgages on Maryland real estate in computing the taxable value of their shares, and it seems only right that the same privilege should be extended to national banks, more especially as national banks have exercised their right to invest in mortgages only to a negligible extent in Baltimore City and only to a limited extent even in the counties, so that to permit the deduction would result in little loss of revenue.

In comparatively recent years, a type of companies has sprung into existence and become a recognized part of our commercial mechanism which are undoubtedly in competition with national and other banks—namely, credit, finance, or “commercial banking” corporations, engaged in buying or discounting commercial paper or accounts receivable. Because of our tax laws, most of these corporations operating in Maryland are now organized under the laws of other states. One of the oldest and largest companies of this class was organized in Maryland, and by Maryland capital, but by reason of our antiquated tax laws was driven to incorporate in Delaware. The problem of dealing with the taxation of such corporations is greatly complicated by U. S. Revised Statutes, sec. 5219, even as now amended.

If the Federal law prohibited merely any actual discrimination against national banks, nobody would object; but in 1926, by the latest amendatory act of March 25, 1926, c. 88, 44 U. S. Stat. 223, Congress still further amended Section 5219 by providing that the State in which a bank is located may tax both the income of the bank and the dividends as income to the several shareholders. The effect is to tend to induce the States to adopt a scheme of income taxation instead of the property taxes which have been constitutionally prescribed in Maryland ever since 1776—a

change of policy which, as already stated, we believe would be unwise in this State.

It must be remembered that Section 5219 of the Revised Statutes gives in respect to taxation one great advantage to national banks over state banks or trust companies: for the States are absolutely prohibited from taxing shares of stock in national banks located in other States, while they are permitted, and cannot constitutionally be forbidden, to tax the shares held by residents in state banks and trust companies incorporated by other states. For instance, although a Maryland State bank or trust company, and its stockholders, must under the Act of Congress be taxed in the same way as a national bank located in Maryland or its shareholders, yet the shares in the State bank or trust company held by residents of another state are also subject to taxation in the states where they respectively reside, whereas the shares of a national bank located in Maryland, although similarly held, are absolutely exempt from taxation in the State where their holders reside. The unfairness of such a rule needs no comment; but the State of Maryland is powerless to afford a remedy.

It must be borne in mind that Section 5219 does not prohibit merely discrimination against national banks in favor of domestic corporations engaged in a competition with them, but extends as well to discrimination in favor of foreign corporations engaged within the State in competition with national banks. The State of Maryland has unfortunately always discriminated, and still discriminates against domestic moneyed corporations and in favor of foreign moneyed corporations doing business in Maryland. So far as this discrimination affects adversely our own domestic corporations, it is, in our judgment, worse than foolish, and ought to be terminated; but it is not unconstitutional. On the other hand, so far as it affects national banks, it is unlawful under Federal law.

We have felt, therefore, that we should be derelict in our

duty if we should fail to recommend some change which would at least make the tax on national bank shares more susceptible of a reasonable argument in support of its validity.

We cannot yield to the contention that the business of banking ought in reason to be taxed in the same way as other businesses, or that there is any parallel between the tax on shares in banks and trust companies and the tax on shares in domestic surety companies, which we have considered above. The tax on shares in domestic surety companies is vicious and prejudicial to the welfare of the State, for two reasons—firstly, because it amounts to a discrimination in favor of corporations organized under the laws of other states and against our own corporations, and secondly, because it amounts to taxing in Maryland business done outside of Maryland.

Neither consideration is applicable to banks or trust companies.

There is no discrimination in favor of foreign banks or trust companies, because there are no foreign banks or trust companies doing business in Maryland. There is, indeed, some question whether a foreign trust company may lawfully do a regular business in Maryland, but there is no doubt that foreign trust companies can be prohibited from doing so, and no doubt that none of them does so, at least to any appreciable extent. Moreover, the business of a bank or trust company is localized in Maryland, while the business of a great surety or insurance company extends from Maine to California, the business done in Maryland being but an almost insignificant fraction of the whole. It is, therefore, proper enough to tax, in effect, the good will of a bank or trust company, which is confined to Maryland, and altogether improper to tax the good will of a domestic surety company which is principally derived from business outside of Maryland.

It is one thing to tax our local banks and trust companies, essential though they be to our commercial life and proud as we may justly be of their prosperity, upon the value of their

stock as augmented by their earnings and good will, all of which are concentrated in Maryland; and quite a different thing to tax such companies as surety companies in the same way, their business being nation-wide and their earnings mostly earned outside of Maryland. The difference is illustrated by the fact that a Maryland surety company may, and, save for sentiment, would, under existing laws, be wise to reincorporate under the laws of some other state, while the like expedient is not open to banks and trust companies.

It is said, however, that the tax on shares of banks and trust companies, and particularly the gross receipts tax on the latter, amount to taxing them on the good-will of their Maryland business—something which is not done in the case of any business conducted by an individual or partnership, or by any domestic corporation—except common carriers and public service corporations, and, under the present law, insurance, guarantee and finance corporations—or by any foreign corporation, except for the very moderate franchise tax and the likewise moderate premium tax on insurance companies. We do not think, however, that this circumstance, even if the premises be conceded, in itself renders the tax on shares of banks and trust companies unjust. It is said, indeed, that the profits from a banking business properly so called—that is, exclusive of underwritings of security issues, etc.—are less than those of most other businesses. On the other hand, if the profits be less, they are surer. Moreover, the public supervision, by the State Bank Commissioner in the case of state corporations, and by the Comptroller of the Treasury in the case of National Banks, affords, if not a governmental guarantee, at least a governmental certificate of soundness, and properly marks out the institutions for special treatment.

We, therefore, feel that the maintenance of the present tax on shares in banks and trust companies, at least in its present general outlines, is desirable, with the alleviations of its provisions set out in the accompanying draft. The

only means of rendering its validity, as to national banks, even reasonably likely, is to impose a like tax on corporations, domestic and foreign, engaged in a business competing with national banks.

We have, therefore, provided that any domestic finance or other corporation engaged in a business competing with national banks shall, in respect to its business in Maryland, be taxed like a national bank. This requires that an apportionment of its assets and the value of its stock shall be made each year by the State in proportion to its gross earnings within and without the State, and that the taxes on so much as is allocated to its domestic business shall be paid at the same rate as that imposed on national bank shares.

In respect to foreign corporations doing a similar business, we have made similar provisions for separating the business done within and without the State, and for taxing the Maryland business at the same rate as the rate on bank shares. This tax will leave unaffected the tax levied against the resident holders of stock at the 45 cent rate, so that there will be some inducement to such corporations to incorporate in Maryland.

The trust companies, particularly the county trust companies, complain vigorously of the injustice of the gross receipts tax as to them. We think their complaints are just, particularly in view of the fact that national banks now have trust powers, and are, necessarily, exempt from any gross receipts tax. Fear of reducing the State's revenues is the only thing which has made us hesitate to repeal this tax outright. Moreover, while national banks have trust powers, they have not in this State exercised them to any very great extent, although, particularly in the counties, they are doing so increasingly. We have, therefore, provided that the gross receipts tax on trust companies which is now 2½% shall be reduced to 2% in 1930, 1½% in 1931, 1% in 1932, and thereafter shall be repealed. As the competition of national

banks increases, the discriminatory burden on trust companies will diminish and finally vanish altogether.

The reduction in the State's revenues will thus be gradual, and will, we estimate, be more than made up by the tax on foreign finance corporations for which we have provided.

III.

In addition to the changes incorporated in our draft of Bill, there are certain others which we think ought to be made, but which we either do not deem expedient to be recommended at this time, or think should have further study before being adopted.

Tax On Furniture and Other Non-Productive Chattels.

The existing law taxes furniture and household effects, and similar non-productive chattels, at the same rate as real estate, save that \$500, or, in a comparatively few counties, \$100, in value is exempt. The tax is very unequal and unjust in its operation, for there is really no standard of valuation for such property. Undoubtedly, many a person is assessed for \$500, or not assessed at all, upon such property, while other persons, owning property in the same city or county of no greater value are assessed for as much as \$2,000 or \$5,000. To aggravate the situation, the assessing authorities have adopted the practice of inquiring as to the amount of fire insurance carried upon such property. The result is that not merely are they misled—because of course the insurable value is the cost of reproduction, while the assessable value is the amount for which the property could be sold—but also a tax is levied, in effect, not upon values, but upon caution—upon the householder who is prudent enough to carry adequate insurance. This practice is especially unfair as between different parts of the State; because, say, in Bal-

timore City, where fire protection is good, even a prudent householder can afford to keep his effects under-insured, whereas in country districts, where there is no fire protection at all, he must insure to the utmost extent of the cost of reproduction.

We believe that undoubtedly personal chattels held for use or enjoyment and not for profit should be exempt from taxation. Such approximately was the rule under two at least of the earliest assessment acts in this State, the Act of 1797, Ch. 89, Sec. 1, and the Act of 1812, Ch. 191, Sec. 1. We think that sound public policy will ultimately require a return to this rule.

However, we have not felt that it would be expedient to attempt this reform at the present time, and thus perhaps jeopardize the recodification and simplification of the tax laws, which we regard as the most pressing necessity.

We have, however, provided that the exemption of \$500 of each person's property of this kind, which is now applicable in Baltimore City and in a majority of the counties, should be made State-wide. The cost of collecting the trivial tax on the difference between an exemption of \$500 and an exemption of \$100 probably almost, if not quite, equals the revenue derived from an exemption of the smaller amount. We cannot believe that this moderate measure of justice and equalization would meet any serious opposition.

Tax on Stock in Trade of Merchants.

Serious complaint is made against the present tax on stock-in-trade of merchants. It is said that when business is bad and the stock accumulates, the assessment goes up, while when business is good and quick turn-overs are effected, the assessment on the average stock on hand diminishes. We think the complaint is justified, and the grievance real.

We believe that the tax on merchants' stock-in-trade should be repealed, and some form of a sales tax substituted. Un-

fortunately, we have not the funds at our command necessary to make the substitution in such a way as not to affect prejudicially the revenues of the State and its various political subdivisions, and at the same time to work out justice to all concerned.

Motor Car Taxes.

Many motorists are inclined to criticize our tax laws as unduly severe upon them. They regard the property tax on motor cars, the licenses required for motor vehicles, and the gasoline tax, as double or even triple taxation. We do not accede to this view. As already stated, we have not concerned ourselves with the gasoline tax; but we do think that automobiles, while no longer an indication of wealth, yet mark their owners as belonging at least to the class of the fairly well-to-do. They are in every sense proper subjects of special taxes in addition to ordinary property taxes.

We do think, however, that the present method of imposing upon motor vehicles a property tax and then a license tax, requiring the former to be paid as a condition to the issuance of the license, is unnecessarily cumbrous, and that the amount of the license-fee should be increased so as to cover the property tax, and automobiles should then be exempt from any other taxation, just as a dog license is exclusive of any other tax on the dog.

Of course, if this suggestion were adopted it would be necessary to devise some schedule of license fees, so that an old, worn-out car would not pay the same tax as a new one of the same horsepower.

Any such reform would require prolonged and intensive study, and we have neither the time nor the means to attempt to work it out.

Apportionment of State Taxes.

The desirability of spreading the burden of State taxes equally throughout the State was one of the principal objects

of the creation of the State Tax Commission; and much has been accomplished by that body towards the equalization of assessments in different parts of the State. Much, however, yet remains to be done in that direction; and there are not wanting those who believe the object to be impossible of attainment. No doubt, with any approach to mathematical accuracy, it is impossible to be attained; but it does not follow that we can not achieve such an approximation to ideal perfection as to be fairly well adapted to the practicalities of life. At all events, this Commission can not do otherwise than recommend to the State Tax Commission continuance in well-doing, and to the General Assembly such minor changes in the law as will make the task of the State Tax Commission more nearly capable of complete performance.

It has, indeed, been suggested to us that a scheme might be adopted whereby instead of levying State taxes at an actually uniform rate upon supposedly uniform assessments, a budget should be made up each year and that the amount to be raised should be apportioned between the several counties in proportion to their supposed wealth—which would have to be ascertained every year or two by a careful economic survey of the State. Each county would then be required to raise its quota by levying upon the assessments on its books such rate of tax as would produce the required sum. It would thus be immaterial to the inhabitants of each county whether or not the assessments in any other county reflect full value or not.

Of course, the fairness of any such scheme depends upon the fairness of the apportionment of the annual budget between the counties. However successful the plan may have been elsewhere, we are by no means convinced that it would be satisfactorily workable in Maryland. We are, however, convinced that the plan deserves careful consideration and study. An attempt to introduce it at the present time would be, in our judgment, premature and unwise, but its operation in other States should be attentively watched, and

methods of adapting it to our local conditions should, if possible, be devised, and the advisability of adopting it hereafter thoughtfully weighed.

Quinquennial General Assessments in Counties.

In Baltimore City the law now provides for a reassessment of one-fifth of the City, at least, every year, so that there is no longer any such thing as a general reassessment. This condition is found highly satisfactory in practice. The only question, so far as the City is concerned, is whether justice and convenience would not be subserved by requiring that the assessment of all property taxable in the City be specifically revised—i. e., by requirement of law rather than upon the request of the taxpayer or upon the whim or caprice of the tax officials—even more frequently.

In the counties, however, there is, according to practice if not law, a general reassessment every five years, with all the turmoil, bitterness and complaints that a general assessment inevitably involves. We think that the Baltimore City practice could with profit be introduced in most if not all of the counties.

On the other hand, we hesitate to make the City practice mandatory in the counties. In the first place, there may well enough be counties where a sudden change would be inadvisable. In order to make the change obligatory a careful survey would be necessary of the local conditions in each county. In the second place, we believe that the State Tax Commission already has ample power to order a reassessment of, say, one-fifth of the property in any county each year, rather than a general reassessment of all property every five years. To prescribe partial reassessments every year would therefore amount to abridging the existing powers of the State Tax Commission.

Accordingly, although we believe that partial reassessments every year are, at least in the larger and more popu-

lous counties, much preferable to quinquennial general reassessments, we have concluded that we ought not to go further than to provide expressly that the State Tax Commission shall have power—a power which we believe it already possesses—to order annual reassessments of portions of the property in any county, instead of a quinquennial general assessment, and to express the hope that the State Tax Commission may see fit to exercise this power so far as in its judgment may be compatible with local conditions.

Relief of Real Estate.

The argument is sometimes made that the elimination of some oppressive taxes on business would “increase the burden on real estate.” For example, when in former years Maryland surety companies were seeking some small measure of relief against the discriminatory taxes levied upon them, it was urged against them that to grant their request would “increase the burden on real estate.” We think this argument wholly fallacious. All business must be carried on upon real estate, and is therefore dependent upon real estate. It is from real estate that we derive our daily bread and the raiment wherewith we are clothed. Conversely, it is from business that real estate derives its value. Why is it that an acre of land at the corner of Baltimore and Charles Street is worth more than one hundred thousand times as much as the same area in some parts of this State? Is it not solely because of the vast business concentrated in Baltimore City? Therefore, the true “friend of real estate” is he who would most foster business. It is a penny-wise policy for a landowner to object to the repeal of a tax which interferes with business for fear lest the repeal should increase taxes on his lands. No tax upon real estate could possibly be so injurious to the landowner as a tax which hampers commercial activity and enterprise.

Farm Relief.

Associated with the matter discussed in the last paragraph is the matter of readjusting the tax burden in such a way as to afford some relief to agriculture—particularly in the present depressed state of the farming industry throughout the length and breadth of this land. We have not the means at our command to study out the appropriate method of affording relief, so far as changes in the tax laws of a State can do so, even if we thought it wise to complicate the systematizing and clarifying of the tax laws by introducing so intricate and debatable a problem.

Of one thing we are certain—namely, that no real relief to the farmer can result from imposing tax burdens on industry and commerce which would tend to drive capital from the State and to throttle industry and commerce. In matters of taxation it is peculiarly true that “no man liveth to himself and no man dieth to himself”; and to impose any burden on business, which would tend to drive capital from the State and to reduce the population which depend for their sustenance upon our farmers’ products, or to refrain from amending any existing tax laws which have that effect, is the reverse of kindness to the farmer.

While this is true we think that just as relief should be afforded to merchants by repealing the tax on their accumulated stock in trade, and substituting a sales tax, so relief could properly be extended to the farmer by repealing the tax on farming implements (over \$300 in value)—we have gone so far as to increase the exemption from \$300 to \$500—and the tax on horses, etc., used in farming, or even on sheep, cattle, etc., raised for market. Of course, the farmer should not delude himself into the belief that, at any rate in any purely or chiefly agricultural county, such measures would, so far as county taxes are concerned, have any appreciable effect on, to use a newspaper phrase, the figures in the lower right-hand corner of his tax bill. But they would diminish

his share of the burden of State taxation, and as such would be, in our judgment, a proper measure of justice.

Such a measure should go hand in hand with a removal of the tax on furniture and other tangible personal property not held for profit, and with a substitution of a reasonable sales tax for the tax on the stock in trade of merchants.

IV.

Conclusion.

We submitted our Preliminary Report and Tentative Draft of a tax revision bill in June. We circulated the same as widely as possible, and invited criticisms and suggestions. One of our members solicited a hearing before the Bar Association of Baltimore City and asked for assistance or criticisms from the lawyers. We repeated the invitation more than once in the public press.

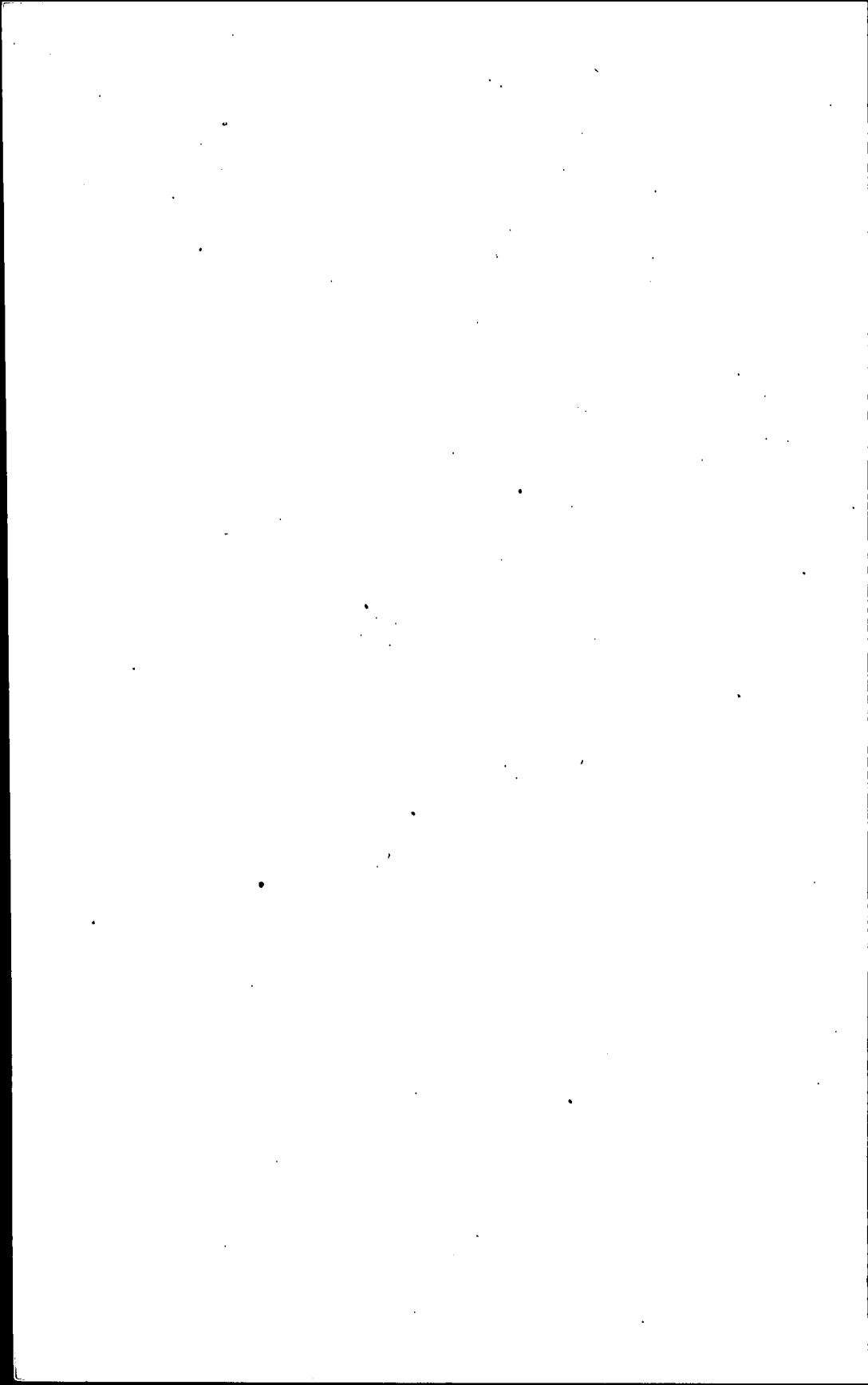
We have received many valuable suggestions from members of the bar throughout the State. We spent three whole days in going over our draft of a Bill, section by section, with the State Tax Commission, and have received from them criticisms and suggestions which have eliminated some errors in our Tentative Draft, and have enabled us to improve the measure in some important respects.

Although many persons have criticised our Tentative Draft for failing to go far enough in removing blemishes in the tax system of the State, yet we are proud to state that no one has denied that our Bill, even before some serious errors were called to our attention and corrected, is an improvement over the existing law. We trust, therefore, that without self-flattery we can say that the measure we are recommending to you and the General Assembly is *no worse* than the existing law. At least, we think it is more intelligible. If so, its adoption would at least do some good.

We do not claim that the Bill we are proposing is ideal—far from it. Indeed, as already more than once stated, we have not tried to make it ideal, and have repeated many provisions of the existing law of which, theoretically, we do not approve, rather than jeopardize the recodification, simplification and clarification of the law by stirring up questions which are debatable or which would arouse opposition. We do, however, make the modest claim that our draft of Bill is at least an improvement in form over the existing law, and is,—at least in the main—no worse in substance.

Respectfully submitted,

ARTHUR W. MACHEN, JR., *Chairman.*
 HARRY E. GILBERT,
 PHILLIPS LEE GOLDSBOROUGH,
 CHARLES C. WALLACE,
 F. BROOKE WHITING.



A BILL

ENTITLED

AN ACT to re-codify and revise the revenue and tax laws of Maryland.

WHEREAS, Chapter 687 of the Acts of Assembly of 1927, authorized the appointment of a Tax Revision Commission, and

WHEREAS, Said Commission was duly appointed and has reported in favor of a recodification and revision of the tax laws of this State, and

WHEREAS, It is desired to approve the report and recommendations of said Commission and to enact the same into law.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That Article 81 of the Code of Public General Laws of Maryland (1924), entitled "Revenue and Taxes," be and it is hereby repealed, and that a new article, with the same title and appropriate sub-titles, be and it is hereby enacted in lieu thereof to read as follows:

ARTICLE 81—REVENUE AND TAXES.

Rules of Construction.

1. The provisions of this article, so far as they are substantially the same as existing statutes, shall be construed as continuations thereof, and as intended to make no substantive change in existing laws, except so far as such change shall be clearly manifest; and no implication of a change of intent shall arise by reason of a change in words or phraseology, or by reason of a relocation or rearrangement of sentences, phrases, sections or paragraphs except so far as such change of intent shall be clearly manifest.

This section is new, being necessitated by the recodification. It is modelled upon a section with a similar purpose in the Federal Judicial Code, § 294 (36 U. S. Stat. at Large, p. 1167).

2. As used in this article:

(1) The term "corporation" shall include association or joint stock company.

This provision is new. It is intended to take care of so-called "Massachusetts trusts" and similar unincorporated associations which have a quasi-corporate organization and most of the attributes of corporations.

(2) The phrase "organized under the laws" shall mean formed or existing under the statute or common law.

This and the two succeeding paragraphs are inserted for simplicity and brevity—to prevent the necessity of repeating, many times over, clarifying or qualifying expressions.

(3) The term "foreign" as applied to a corporation or company shall mean organized under the laws of any State (other than this State), Territory, District, possession or foreign country, or the United States.

(4) The term "domestic" as applied to a corporation shall mean organized under the laws of this State.

(5) The word "person" shall include a corporation.

This repeats in a slightly more emphatic form the rule of interpretation prescribed by Code, Art. I, Sec. 15.

(6) The word "executor" shall include an administrator and *vice versa*.

This repeats in a somewhat more emphatic form the rule of interpretation prescribed by Code, Art. I, Sec. 5.

(7) A partnership shall be deemed a taxable entity and shall be included by the word "person," unless such construction would be unreasonable, and shall be deemed a resident of the county and/or city where its principal business in this State is carried on, without reference to the residence of the partners.

This paragraph codifies the existing law as laid down by the Court of Appeals in the recent case of *McLane vs. Appeal Tax Court*, decided Nov. 22, 1928, and reported in *Daily Record*, Nov. 28, 1928.

(8) The phrase "interest-bearing" or "dividend-paying" shall, as applied to securities, respectively mean actually paying interest or dividends during the year preceding the first day of October preceding the year for which taxes thereon are to be levied; provided that any securities on which interest or dividends are withheld for the purpose of avoiding taxes thereon shall be deemed interest-bearing or dividend-paying.

This sub-section is inserted primarily for simplicity, and in order to obviate the necessity of including, in the list of exemptions, bonds, etc., upon which no interest or dividends are paid, and which are now exempt under Code, Art. 81, Sec. 225. The present provision also makes clear what the period is during which no dividends or interest may be paid without rendering the securities subject to tax. See *infra* § 6(3), (4) and (5). The reference to October 1st is inserted because October 1st will be the uniform date of finality in the future. During the period of transition, in case of a levy for a fraction of a year, a date three months before the beginning of such fractional period is by Sections 28(b) and 49 substituted therefor. The proviso is new, and is inserted for the purpose of preventing evasion of taxes by withholding dividends. Some residents of Maryland, it is said, have taken advantage of the existing law to organize a holding company under the laws of some other state, and to escape any tax on its stock by the expedient of paying no regular dividends. Of course a stop should be put to this practice.

(9) The phrase "ordinary business corporation" shall mean any corporation having a capital stock, except railroad companies whose roads are worked by steam, electric or other power, street and passenger railways, steamship and steamboat companies, and all other common carriers, telegraph, cable, telephone, express, transportation, parlor car, sleeping car, and oil pipe companies, turnpike companies, bridge companies and sewage disposal companies, safe deposit and trust companies, casualty, surety, guarantee and fidelity companies, insurance companies of all kinds, electric and gas companies, heating, refrigerating, water and gas companies, building or homestead associations, state, national and savings banks, or savings or moneyed corporations; provided that any domestic corporation having a capital stock which

does no part of its business, and any domestic railroad, railway, street or passenger railway, steamship, steamboat, common carrier, telegraph, cable, telephone, express, transportation, parlor car, sleeping car, oil pipe-line, turnpike, bridge, sewage disposal, electric, gas or water company, which neither owns, maintains nor operates properties, lines or works in this State, shall be deemed an ordinary business corporation.

The former part of this sub-section is a substantial repetition of the definition of an ordinary business corporation now contained in Code, Art. 23, Secs. 107 and 112, but whereas that definition is applicable only to certain sections of Article 23 (which are now incorporated in substance in Article 81), the definition is now extended to the whole Article 81, and will be found, it is believed, to make for brevity and clarity. The proviso is intended to codify the provisions of Code, Art. 23, Sec. 114.

(10) the phrase "insurance corporations" shall include insurance companies of all kinds (except title insurance companies), including fire, life and marine insurance corporations, and fidelity, surety, guarantee and casualty companies.

This sub-section is inserted for the purpose of furthering brevity and clearness in the new provision inserted in this draft for the taxing of domestic guarantee and insurance companies.

(11) The phrase "finance corporation" shall include finance, credit, mortgage and commercial banking corporations, and any corporation other than banks or trust companies substantially competing with national banks in this State.

This sub-section is inserted to permit of greater brevity in the new provisions, herein made, dealing with corporations of the kind mentioned in this paragraph.

(12) The word "city" shall include an incorporated city, incorporated town or incorporated village; and, where special rates of taxation apply in any assessment district or part of a county or city, shall include such assessment district or part of a county or city.

The principal object of this sub-section is to obviate the necessity of constantly repeating the words "town or village." It also covers certain assessment districts in some counties and in Baltimore City.

(13) The word "taxpayer" shall include any person or persons paying or liable to pay any tax, or against whom any liability for taxes is claimed or asserted, or could be claimed or asserted, whether on his own behalf or on behalf of others, as, for example, a corporation on behalf of its shareholders.

This and the next two sub-sections are inserted for the purpose of conducting to clarity and brevity in some portions of the act.

(14) Real estate shall include leaseholds, unless such construction would be unreasonable.

See note to sub-section (13) *supra*.

(15) Mortgages shall include instruments in the nature of mortgages and debts secured thereby.

See note to sub-section (13) *supra*.

(16) The phrase "residents of this State" shall include domestic ordinary business corporations doing business in this State, and domestic corporations having no capital stock, and all domestic corporations (except ordinary business corporations not doing business in this State) whose shares of stock are by law exempt from taxation under this article.

This provision is doubtless largely declaratory merely, and at any rate, will be found to permit of avoiding lengthly repetition in various places in the act.

(17) The phrase "county and/or city taxes" shall include taxes levied in or for any taxing district, or part of any county or city, but not taxes levied in consideration of local improvements upon property specially benefited thereby.

This provision makes for clearness, but is doubtless in large part, if not altogether, a repetition of Sub-section 12, *supra*.

(18) A domestic corporation which is a resident of this State shall be deemed a resident of the county and/or city in which its principal office shall be situated.

This provision is largely merely declaratory of the existing law. The words "which is a resident of this State" are inserted principally to make clear that under Section 6(3), (4) and (5) a domestic ordinary business corporation which does no business in this State shall not be taxable on securities owned by it.

(19) A foreign corporation doing business in this State shall in respect to intangible property used in or in connection with its business in this State, including property held in trust for a resident of this State, be deemed a resident of the county and/or city in which its principal office in this State is situated.

This provision is part of a plan to recognize a business situs of intangible personal property for purposes of taxation. It doubtless overlaps Section 3(b), *infra*, which is part of the same plan. See notes to the last mentioned section.

(20) Railroads worked by steam shall include any railroad operated by steam on the 30th day of March, 1906, even though such railroad has changed, or shall hereafter change its motive power in whole or in part to electricity or other motive power.

This sub-section retains the classification for purposes of taxation prescribed by Code, Art. 23, Sec. 259, which is repealed and re-enacted with amendments by Section 5 of this Act.

(21) The phrase "principal office" as applied to a domestic corporation shall mean the office, if any, in this State from which its business is actually directed and managed, or if there be no such office, then the place in this State where the principal business of the company in this State is transacted, or if there be no such place, then the principal office named in its charter.

This provision is doubtless largely declaratory of the existing law; but at present there is not infrequently an ambiguity in the use of the phrase "principal office"; it may refer either to the actual principal office or to the place named in the charter as the nominal principal office. This ambiguity it seems wise to avoid, wherefore this sub-section is inserted.

(22) The phrase "principal office in this State" as applied to a foreign corporation shall mean the place at which the principal operations of the company in this State are actually carried on.

This provision is doubtless declaratory merely of the existing law.

(23) A gas or electric company shall mean a company en-

gaged in furnishing gas or electricity to the public for light, heat, power, or other purposes.

This provision is inserted merely for convenience.

(24) The word "collector" with reference to a county or city shall include a treasurer or other officer whatsoever his title performing the duties of a collector.

In some counties there are "collectors" and in others "treasurers." Both perform the duties imposed by this Article upon collectors, and it is desired to avoid the necessity of constantly repeating "collector or treasurer."

3. (a) An executor of a deceased person shall in respect to assets of the estate in his hands be deemed a resident of the county (including the City of Baltimore) in which letters testamentary or of administration unrevoked shall have been issued; and if the testator resided in any city in such county, then of such city. A guardian of an infant appointed by any Court of this State shall in respect to the assets in his hands as such guardian be deemed a resident of the county (including the City of Baltimore) in which he shall have been appointed, and if the ward resides in a city in such county then of such city.

This section is declaratory of the existing law. See *Bonaparte vs. State*, 63 Md. 465; *Baldwin vs. Washington County*, 85 Md. 145; *Kinehart vs. Howard*, 90 Md. 1; *Cf., infra* § 36.

(b) A person or firm engaged in business in this State shall, in respect to personal property, tangible or intangible, which is used in or in connection with the business so carried on in this State, and which would be taxable if the owner were a natural person residing in this State, be deemed a resident of this State and of the county and/or city in which such business is conducted.

This carries out the principle codified in § 2(7), *supra*, that a partnership is a tax entity, and also carries out the principle of a business situs for intangible personal property. Under the present law, a non-resident of the State might have a million dollars in taxable securities used daily in Maryland in a business carried on in this State, and yet he would wholly escape taxation. Such a condition should, of course, be remedied if possible, and this and § 2(19), *supra*, represent an attempt to apply a remedy.

(c) The owner of a life estate, term for years perpetually renewable or other particular, limited or defeasible estate in either real or personal property, but not the owner of a lease for less than fifteen years containing no stipulation on the part of the lessee to pay the taxes on the rented property, shall be chargeable with the taxes thereon, with such right to indemnity from other persons as may be provided for by private contract, express or implied, in fact or in law.

So far as an estate for life or other particular freehold estate is concerned this sub-section is declaratory of the common law. So far as tenants for years are concerned, it is a recodification with amendments of Code, Art. 81, Sec. 77. That section, however, seems to impose a personal liability on a tenant for a short term, and such a provision, which seems needlessly harsh, has been omitted, except that a tenant, even for a short term, who has contracted with his landlord to pay the taxes is to remain personally liable. The express provision for a remedy over by the tenant against the landlord has been eliminated as surplusage or worse, as the matter of a remedy over should be one of a fair construction of the lease in each case. Section 77 of Article 81 now excepts Garrett County, but we can see no reason why with the changes we have made the section should not be of State-wide operation.

(d) Except as in this article otherwise provided, a trustee, executor, guardian or other fiduciary shall be taxable in respect of the property held by him as such fiduciary; but such liability shall extend only to the trust assets, and no judgment or execution against the fiduciary therefor shall, unless the fiduciary be guilty of some default or breach of duty, bind any property held in his own right.

This sub-section is declaratory of the existing law (*Latrobe vs. Mayor & C. C. of Baltimore*, 19 Md. 21), except that provision that the liability shall extend only to the trust assets is new, and relieves a trustee from a needlessly harsh personal liability to which he is probably technically liable under existing law. See also § 8(a), (b) and (c), *infra*.

(e) An executor, trustee, guardian or other fiduciary distributing assets in his hands after the first day of October in any year shall retain sufficient funds for the payment of any taxes thereon for the succeeding calendar year on any assessment against him or his decedent or beneficiary made prior

to said first day of October; and in the event of failure so to do he and his bond shall be liable for such taxes.

This sub-section is intended to abrogate the rule laid down in *Bamberger vs. State*, 133 Md. 433, which has already been done away with so far as Baltimore City is concerned by the Act of 1916, Ch. 52. The sub-section is necessary in order to prevent an executor from distributing the assets after the assessment for the next year has become final but before the taxes for that year have become payable, and thus escaping all liability for taxes for the ensuing year.

Classification of Taxes.

4. The taxes imposed by this article shall be divided into (1) ordinary taxes, and (2) special taxes. Direct taxes imposed in respect of real or personal property shall be ordinary taxes. Special taxes shall include—

- (a) Tax on deposits of savings banks.
- (b) Gross receipts tax.
- (c) Tax on official commissions.
- (d) Tax on commissions of executors and administrators.
- (e) Collateral inheritance tax.
- (f) Bonus tax on corporations.
- (g) Tax on franchise to be a corporation.
- (h) Franchise tax on foreign corporations.

ORDINARY TAXES.

On What Assessments to be Levied.

5. All ordinary State, county and city taxes shall be levied upon assessments made in conformity with this article, or upon existing assessments until changed in conformity with this article.

This section is a recodification with some alteration of Code, Art. 81, Sec. 1. Certain "weasel words" in that section as it now stands, which permit of dual assessments when authorized by local laws, have been eliminated, so that hereafter no local assessment shall be permitted varying from the county and state assessment of the same property.

What Shall Be Taxed and Where.

6. The following property, except as in the next succeeding section provided, shall be subject to assessment to the owner and taxation for ordinary taxes in this State and in the county and/or city specified below:

This section, while new in form, is mostly old in substance. Except as mentioned in the succeeding footnotes, its provisions are mainly taken from Code, Art. 81, Sec. 2.

(1) All real properties in this State, by whomsoever owned, in the county and/or city in which the same are situated.

(2) All tangible personal properties located in this State, by whomsoever owned, in the county and/or city in which the same are respectively permanently located, (a) provided that rolling stock of railroads shall be taxed only as provided in Section 8(d); and (b) provided further that tangible personal property located in this State, and not permanently located in any county or city shall be subject to assessment and taxation in the county and/or city where the owner resides or has his or its principal office or place of business in this State.

As to individuals, this sub-section merely codifies the rule of taxation prescribed by Section 37 of Article III of the Constitution of the State. The same rule is now applied to all corporations whose personal property is subject to taxation; and the complicated apportionment required by existing law as to ordinary business corporations is done away with. Henceforth, everybody will be treated alike. The reasons for the change are set out in more detail in the body of the Report of the Tax Revision Commission.

(3) All interest-bearing bonds, certificates of indebtedness or evidences of debt, owned by residents of the State, in whatsoever form made or issued by any public or private domestic corporation (other than a county or city of this State), or made or issued by any state (other than this State), territory, district, possession or foreign country, or by any foreign public or private corporation, in the county

and/or city in which the owners respectively reside; provided such property if owned by a domestic insurance corporation shall be taxed in the county and/or city in which the stockholders respectively reside, or if they be non-residents of this State in which the principal office of the corporation is situated.

This sub-section is a codification of a part of Code, Art. 81, Sec. 225, with verbal changes necessary to harmonize with the definitions contained in Section 2, *supra*. The proviso is part of the new scheme of taxation of domestic guarantee and insurance companies, which is elaborated in the body of the Report of the Tax Revision Commission.

(4) All interest-bearing mortgages, owned by residents of this State on real estate or tangible personal property situated in whole or in part outside of Maryland, in the county and/or city in which such owners respectively reside; provided that such property owned by a domestic insurance corporation shall be taxed in the county and/or city in which the stockholders respectively reside, or if they be non-residents of this State in which the principal office of the corporation is situated.

This is a recodification of the existing, though by no means generally enforced, law, with the same proviso as in the last sub-section relating to guarantee and insurance companies.

(5) All dividend-paying shares of stock or shares in any foreign corporation (other than national banks) owned by residents of this State, in the county and/or city in which the owners respectively reside; provided that such property owned by a domestic insurance corporation shall be taxed in the county and/or city in which the stockholders respectively reside or if they be non-residents of this State in which the principal office of the corporation is situated.

This, like Sub-section (3), *supra*, is a codification of a part of Code, Art. 81, Sec. 225, with similar formed changes, and with the addition of the same proviso as to guarantee and insurance corporations.

(6) All shares of stock in any national bank situated in

this State, in the county and/or city where the holders thereof respectively reside, or if they be non-residents of this State, in the county and/or city where such bank is situated.

This provision is declaratory of the existing law.

(7) All shares of stock in any domestic corporation, other than an ordinary business corporation, or an insurance corporation, in the county and/or city in which the owners respectively reside, or, in the case of shares owned by non-residents of this State, in the county and/or city in which the principal office of the corporation in this State is situated.

This is a mere codification of the existing law save that the exception of insurance corporations is rendered necessary by the new method of taxing such companies, and save that the proviso is added to take care of the new method of taxing "finance" corporations.

(8) All money, including money in bank, belonging to residents of this State, which shall be the proceeds of sale of stocks, bonds or other property disposed of for the purpose of evading or escaping taxation, and all investments in tax-exempt securities or property made not for the purpose of holding the same permanently or indefinitely, but for the colorable purpose of evading or escaping taxation, in the county and/or city in which the owner resides.

As to money, this sub-section is a repetition of one provision of Code, Art. 81, Sec. 2, except that it expressly includes money in bank. As to investments in tax-exempt securities, etc., the sub-section is new. At present some persons, when required to make a return to the taxing authorities, are accustomed to sell out their taxable investments, and, purchasing tax-exempt securities, to make a return showing no taxable property, and then to sell the tax-exempt securities and repurchase the securities originally held. The new portions of this sub-section are intended to stop, so far as possible, this evasion of the law. It is not believed that even the tax-exemption of United States bonds, etc., would protect a person who is not a *bona fide* holder but has bought with the intention of immediately selling the tax-exempts and buying back taxable securities.

(9) All interest, shares or proportions owned by residents of this State in all ships or other vessels, whether such ships or other vessels be in or out of port, provided they be registered in a port of this State, in the county and/or city in

which the owners respectively reside.

This is a recodification of the first clause of Code, Art. 81, Sec. 2, with an amendment to make the provision less clearly in conflict with the Fourteenth Amendment to the Federal Constitution as interpreted by the Supreme Court in *Frick vs. Pennsylvania*, 268 U. S. 473.

(10) The stock in business of goods, wares and merchandise of every person, firm, foreign corporation and domestic ordinary business corporation engaged in commercial business in this State, which shall be deemed tangible personal property permanently located in the county and/or city where such business is carried on.

This is a codification with formal changes of a rule of taxation which, oddly enough, is now tucked away under a heading of "Exemptions" in Code, Art. 81, Sec. 4. See also Section 12.

(11) Money, including money in bank, bills or accounts receivable, mortgages on real estate or on tangible personal property situated in Maryland, shares of stock in domestic corporations, not otherwise taxable to the holders, and other choses in action, belonging to domestic insurance corporations, in the county and/or city where the stockholders of such domestic insurance corporation respectively reside, or if they be non-residents of this State in which the principal office of the corporation is situated; all upon the contingencies and to the extent provided in Section 18 and no more.

This sub-section is a part of the new method of taxing domestic surety, etc., corporations.

(12) So much of the capital stock of foreign finance corporations doing business in Maryland as represents business done in this State, in the county and/or city in which the principal office of the corporation in this State is situated.

This sub-section is part of the new method of taxing "finance" companies.

7. The following shall be exempt from assessment and from State, county and city taxation in this State, each and all of which exemptions shall be strictly construed:

(1) Property, real and personal, tangible and intangible, belonging to this State or to any county or city of this State.

Except as noted below, this section is a re-arrangement and condensation of the exemption set out in Code, Art. 81, Sec. 4.

(2) All bonds, stocks, certificates of indebtedness or other obligations in whatsoever form issued or to be issued by this State or any county or city thereof.

This sub-section codifies the rule of exemption now more verbosely set out in Code, Art. 81, Sec. 5.

(3) Real and personal property owned by any incorporated fire insurance salvage corps without capital which uses its property as aid to the fire department of any county or city in this State.

(4) The property of any fraternal beneficiary association incorporated or licensed under Article 48A of the Code of Public General Laws of this State (1924), except real estate, chattels real and office equipment, and shares of stock in domestic corporations and national banks the taxes upon which are required by this Article to be paid by such corporation for account of the shareholders.

This sub-section codifies the rule of exemption now found in Code, Art. 48A, Sec. 181.

(5) Houses and buildings used exclusively for public worship, and the furniture contained therein, and any parsonage used in connection therewith, and the grounds appurtenant to such houses, buildings and parsonages and necessary for the respective uses thereof.

(6) Graveyards, cemeteries (including burying grounds set apart for the use of any family or belonging to any church or congregation) and cemetery companies which are not operated for pecuniary profit and which do not accumulate profits for any purpose other than the maintenance or improvement of their cemeteries or graveyards as cemeteries or graveyards.

(7) Real property purchased in the State of Maryland by survivors of the Civil War of 1861-5 for the purpose of erecting monuments and of laying out commemorative parks in memory of those who fought on either side during said war; provided that no more than fifteen acres shall be exempted for any one association.

This sub-section codifies Code, Art. 81, Sec. 11.

(8) Buildings, equipment and furniture of hospitals, asylums, charitable or benevolent institutions and the ground not exceeding forty acres in area appurtenant thereto, and necessary for the respective uses thereof.

(9) Buildings, furniture, equipment and libraries of incorporated educational or literary institutions and the ground, not exceeding (outside of any city) forty acres in area, appurtenant thereto, and necessary for the respective uses thereof.

(10) Crops or produce of any land in the hands of the producer or his agent.

(11) Provisions and food kept for the use and consumption of the family of the person to whom such provisions and food shall belong.

(12) Five hundred dollars in value of the farming implements of any farmer.

As stated in the body of the Commission's report, the existing exemption of \$300 is increased to \$500 for the purpose of affording some measure of relief to farmers.

(13) Wearing apparel of any description, except diamonds and other costly jewelry not habitually worn on the person.

(14) Fish while in the possession of fishermen employed in catching, salting and packing the same, or while in the possession of their agents unsold.

(15) Personal property, tangible and intangible, of any

domestic corporation having a capital stock divided into shares, or of any national bank located in this State, if the shares of stock of such corporation are subject to taxation under the laws of this State.

(16) Shares of stock in domestic railroad companies, which are subject to taxation upon their gross receipts within this State; and (from State taxes only) the real and personal property of such railroad companies.

(17) Shares of stock in domestic building and homestead associations, to the extent that such shares represent investments in cash, fixtures, loans on hypothecated stock of such association, judgments or decrees of courts of this State, mortgages on real estate situated in this State, and bonds of the United States and the State of Maryland.

This sub-section codifies the rule of exemption now found in Code, Art. 23, Sec. 165.

(18) Five hundred (\$500) dollars in value of household furniture and effects in this State held for the household use of the owner or members of his family, and not held or employed for purposes of profit or in connection with any business, profession or occupation.

As stated in the body of the Report of the Commission the only change made by this sub-section is to make this exemption of \$500 State-wide.

(19) The ground and buildings for the House of Reformation, the House of Refuge and the Industrial Home for Colored Girls.

This codifies the exemptions now found in Code, Art. 27, Secs. 603 and 648. The exemption is doubtless now surplusage as both institutions are now agencies of the State.

(20) Personal property, tangible or intangible, of any savings bank, savings institution or corporation organized for receiving deposits of money and paying or crediting interest thereon, and having no capital stock, except shares of stock in any national bank or in any corporation organized under the laws of the State and liable to taxation hereunder.

(21) Shares of preferred stock issued after April 5, 1927, by any electric railroad or street railway corporation organized under the laws of this State which derives more than sixty-five (65) per centum of its income (directly or through one or more other corporations organized under the laws of this State) from passenger revenue, and which preferred stock is preferred and limited as to dividends and assets; provided that the property acquired by such corporation with the proceeds of such preferred stock and all other property of such corporation shall be and continue subject to taxation in the same manner and to the same extent as, but to no greater extent than, it would be if all of the stock of such corporation were subject to taxation and fully taxed; and the aggregate value of all shares of stock of such corporation as ascertained and determined by the State Tax Commission after the issue of such preferred stock shall not include or reflect the value of such preferred stock so issued or any part thereof, and such aggregate value as so ascertained and determined for subsequent years shall not exceed (1) the aggregate value of all taxable shares of stock of such corporation as ascertained and determined by the State Tax Commission for the year preceeding the first year in which any part of such preferred stock shall have been issued, or (2) the assessed value of the real estate of such corporation plus all other amounts which are deductible from the aggregate value of its taxable shares, or (3) the market value of all taxable shares of stock of theretofore or thereafter issued, whichever is the greatest.

This sub-section codifies the provisions of Article 81, Sec. 169½, as enacted by the Act of 1927, Ch. 243. The meaning of this Act is not easy to understand, and its policy is very questionable. Moreover, it is probably unconstitutional. It probably was enacted at the instance and for the benefit of one corporation which undoubtedly would object to its elimination from the law. True to our principle of re-codifying the law as now existing without any changes in substance except such as are so imperatively demanded that they ought to command the universal approval of all thoughtful persons, we are therefore re-enacting the provisions of this

remarkable statute. But in doing so, the Tax Revision Commission must not be considered as expressing any opinion in favor either of its wisdom or of its constitutionality.

(22) Any property exempted from taxation by this State by the Constitution of the United States or by any Act of Congress passed pursuant to and in conformity with the Constitution of the United States.

(23) Intangible personal property specified in Sub-divisions (3), (4) and (5) of Section 6 of this Article owned by any domestic ordinary business corporation which does no part of its business within this State.

(24) Working tools of mechanics or artisans moved or worked exclusively by hand.

(25) Tools (including mechanical tools), implements, whether worked by hand, steam or other motive power, machinery, manufacturing apparatus or engines used in manufacturing, whether temporarily idle or not, in any county (including the City of Baltimore) in which by law, resolution or ordinance the same are or may be exempt from county or city taxation; and the County Commissioners of any county and the Mayor and City Council of Baltimore are hereby authorized to pass such resolution or ordinance.

(26) Raw materials on hand and manufactured products in the hands of the manufacturer in any city and/or county in which by law or ordinance the same are or may be exempt from county and/or city taxation; provided that nothing in this paragraph shall exempt any such property from State taxation or from assessment therefor.

(27) Property, real or personal, owned by the Veterans of Foreign Wars of the United States, incorporated by special Act of Congress, The American Legion, incorporated by Act of Congress, or the Disabled American Veterans of the World War, incorporated in 1921 under the laws of Ohio, or any

department, State or local unit, chapter, branch or post, whether incorporated or unincorporated, of any of said organizations; provided such property is used exclusively for houses, clubs, asylums, hospitals and burial grounds, or the maintenance thereof, of any of said organizations.

This codifies in substance Code, Art. 81, Sec. 8.

(28) Vessels of five hundred (500) dead weight tons registered at any port in this State owned by American citizens or partnerships or by any domestic corporation regularly engaged in foreign or coastwise commerce between any port in the State of Maryland and any port or ports beyond the limits of the Chesapeake Bay and its tributaries, provided that the exemption granted by this paragraph shall end December 31, 1935.

This sub-section is substantially a recodification of Code, Art. 81,

(29) Intangible personal property held as part of the endowment of any incorporated hospital, asylum, or educational institution organized under the laws of this State no part of whose net earnings inures to the benefit of any private stockholder or member which are or shall be the gift of any non-resident of this State or of any foreign corporation to any such hospital, asylum, or educational institution of this State, to enable it to carry on or extend its charitable or benevolent objects, or to promote public education or the advancement of knowledge by scientific research, or which are or shall be investments or reinvestments of any property or funds so given.

This repeats in substance Code, Art. 81, Sec. 6.

8. (a) Intangible personal property held by any domestic trust company in trust to pay the income for the time being to, or to accumulate or apply such income for the benefit of, any non-resident of this State, shall not be taxable hereunder if (1) such beneficial owner or *cestui que trust* was at the time of the creation of the trust a non-resident of this State,

and (2) the testator, settlor or grantor was also at the time of the creation of the trust a non-resident of this State.

As stated in the Preliminary Report of the Commission, the provisions of this sub-section are intended to enable our domestic trust companies to compete successfully for business from non-resident testators or donors. It cannot deprive the State or its counties or cities of any considerable amount of revenue they would otherwise get, and on the other hand it may draw business into the State and increase our general prosperity.

(b) In case intangible personal property shall be held by any non-resident of this State in trust for any resident of this State, the value of the interest therein of such resident of this State shall be subject to tax as if such beneficiary were the legal owner if, and only if, such property is not actually taxed at its full value to such trustee, and the taxes thereon paid, at the place of his residence.

This sub-section recognizes the rule recently laid down by the Supreme Court of the United States in *Brooke vs. Norfolk*, 277 U. S. 27, and goes as far as permitted by that decision in taxing such property, and as may be necessary to prevent evasion of our tax laws.

(c) Intangible personal property held in trust by a resident of or by a corporation having its principal office or place of business in any county and/or city in this State, in trust for any person residing in any other county and/or city in this State shall be taxed to the owner of the equitable estate or estates for the time being therein in the county and/or city where he may reside, but shall be payable by and collected from the trustee for the account of the beneficiary.

This sub-section recognizes the existing rule as to the situs of such property at the residence of the cestui que trust, but requires the trustee to pay the tax for the account of the beneficiary in the same way that corporations are frequently required to pay taxes for account of their shareholders.

(d) Rolling stock of railroads worked by steam shall, for purposes of county and Baltimore city taxation, be apportioned among the counties of this State and the City of Baltimore in proportion to the mileage of such railroads therein; and whenever the railroads owning, hiring or leasing said

rolling stock shall extend beyond the limits of this State, that proportion of the total rolling stock not permanently located in this State which the mileage of such railroad in this State bears to its total mileage, shall be deemed located and taxable in Maryland.

This is a codification of a part of Code, Art. 81, Sec. 223.

(e) Where one or more of several co-trustees are residents of this State or domestic corporations and one or more non-residents or foreign corporations, that proportion of the total value of the trust property which the number of resident trustees bears to the whole number of trustees shall be deemed to be held in trust by a resident of this State, and the residue to be held in trust by a non-resident thereof.

This sub-section is new, and changes the existing law in the interest of simplicity.

9. Any incorporated town in this State shall have power (a) to select as the subjects of town taxation such classes of personal property, of land, or improvements on land, assessable under this Article, as it may deem wise, and (b) to levy such special or limited rates of town taxation as it may deem wise on any class of property so selected as a subject of town taxation for which a fixed or limited rate of town taxation is not prescribed by this Article: Provided that all such town taxes shall be levied upon assessments made pursuant to this Article by the county commissioners of the county in which such town is situated or by the State Tax Commission.

This section recodifies in condensed and clearer form the provisions of Code, Art. 81, Sec. 269, removing surplusage, and conforming the section to the abolition of dual assessments of the same property, without, however, in any material respect affecting its substantive operation.

By Whom Assessment Shall Be Made.

10. (a) Except as in this section otherwise provided, all property, real or personal, subject to ordinary taxation under this article, shall be valued and assessed for purposes of State

and county and/or city taxation by the County Commissioners of the county in which the same shall be subject to taxation hereunder, or if the same be subject to taxation hereunder in Baltimore City by the Appeal Tax Court.

(b) The following shall be valued and assessed for purposes of State, county and/or city taxation by the State Tax Commission:

(1) Shares of stock subject to taxation under this Article in any national bank located in this State or in any domestic corporation.

(2) So much of the capital stock of domestic or foreign finance corporations doing business in Maryland as represents the business done in this State.

(3) Rolling stock of railroads worked by steam, for county and Baltimore city taxation by the State Tax Commission.

(4) Distilled spirits.

(5) Intangible personal property of domestic insurance corporations mentioned in Section 6(3), (4), (5) and (11).

This section is a codification of the existing law, except for the insertion of clauses made necessary by the new provisions for taxing "finance" and "insurance" corporations, and except for the elimination of the provision that tangible personal property of domestic ordinary business corporations shall be assessed by the State Tax Commission instead of the local authorities.

Method of Assessment.

11. Except as hereinafter provided, all property directed in this article to be assessed, shall be assessed at the full cash value thereof without reference to the cost thereof or cost of reproduction, and it shall not be lawful to inquire as to the amount for which any such property may be insured. Any assessment existing when this Act takes effect, or thereafter made, shall continue in force from year to year until

changed pursuant to the provisions of this article. Whenever on June 1, 1929, there shall be in force different county and city assessments of any property in or against any resident of a city in any county, the county assessment shall thenceforth prevail, provided (1) that said city or any taxpayer therein may at any time before such assessment becomes final for the next succeeding levy apply to the county commissioners to increase, reduce or abate such county assessment in whole or in part, and provided further (2) that it shall be the duty of the State Tax Commission to cause such notice to be published by advertisement in some newspaper or newspapers published in said county as it may deem reasonable, warning said city or said interested taxpayers thereof to appear and show cause why such county assessment should not stand as the city assessment, and appointing a day or days for the hearing by the county commissioners of all such complaints, on which day or days the county commissioners shall attend to hear any such complaints and receive any evidence in support thereof, and to decide on the same.

The rule of "full cash value" is now prescribed by Code Art. 81, Sec. 13. The prohibition of inquiry as to the amount for which the property is insured is inserted in order to prevent the assessing authority from being misled, and to abrogate the practice of taxing persons rather on the extent of their prudence than on the salable value of their property. All after the first sentence in the section relates to preserving in force assessments existing when the Act shall go into effect, and as to substituting a single assessment for both county and local purposes for separate and divergent assessments, pursuant to the plan of abolishing dual assessments of the same property.

12. The stock in business of every person, firm, foreign corporation, or domestic ordinary business corporation, engaged in commercial business in this State shall be valued and assessed at its fair average value during the year preceding the first day of October next preceding the taxable period in question, or the portion of such year during which such stock in business was held.

See notes to Section 6 (10) supra.

13. No extra assessment shall be made, and no extra tax shall be levied or collected on any bridge over a stream, or tunnel, forming part of any railroad or turnpike in this State, it being the intent and meaning of this section that any such bridge or tunnel shall be valued and assessed at the same rate as any other equal portion of such railroad or turnpike is valued and assessed.

This section codifies provisions now found in Code Art. 81, Sec. 227, and Art. 23, Sec. 250.

14. In valuing and assessing real estate, the land itself and the buildings or other improvements thereon shall be valued and assessed separately; and such buildings or improvements shall be assessed at such sum, if any, as they may add to the fair market value of the land, without reference to their cost or to their cost of reproduction; and buildings or improvements not substantially completed on the first day of October preceding the year for which the taxes are to be levied shall not be assessed at all.

This section codifies the existing law and practice in at least the greater part of the State. It prescribes a rule which is essential for any attempt to equalize assessments as between different counties, and also sets out the true rule as to the valuation of improvement—a rule which has been repeatedly recognized by the State Tax Commission.

15 (a). In computing the assessable value of shares of stock in any national bank located in this State, or in any domestic corporation (other than finance corporations) having a capital stock divided into shares which are subject to assessment and taxation under this article, the State Tax Commission shall first ascertain the total aggregate value of the shares of capital stock of such corporation by considering (1) the market value, if any, of the shares of such stock, without reference to sales at abnormal prices, due to a corner in the market or other conditions rendering market quotations not a fair index of actual value of the shares of stock as a whole; (2) the net earnings or income of such corporation, and (3) the net value of its assets; provided (a) that such aggregate value of

the shares of capital stock shall never be ascertained to be less than the fair aggregate value of all the property and assets of such corporation of whatsoever kind and wheresoever situate, less the indebtedness or other liabilities of such corporation, exclusive of the capital stock, but with a fair allowance for contingent liabilities, and (b) that such aggregate value of the shares of the capital stock shall never be ascertained to be less than the total value of the real estate and tangible personal property owned by such corporation in this State.

(b) From the amount so ascertained as the total value of the capital stock of such corporation shall be deducted: (1) The assessed value of all real estate in this State assessed to such corporation. (2) The assessed value of any real estate and/or tangible personal property belonging to such corporation and situate in any other State, territory, district, possession or foreign country on which taxes shall actually be paid by such corporation in such other State, territory, district, possession or foreign country. (3) The value of any mortgages on real estate in this State held by any such corporation. (4) The fair value of shares of stock in any national bank situated in this State or in any domestic corporation which are taxable to the holders under this article, and the taxes on which are hereunder required to be paid by such national bank or corporation for the account of the holders.

(c) After making the deductions specified in paragraph (b) of this section from the total value of the capital stock ascertained under paragraph (a), the residue shall be divided by the number of shares outstanding and the quotient shall be the assessable value of each share.

(d) If two or more classes of stock of such corporation shall be outstanding, the State Tax Commission shall ascertain how much of the total value of the capital stock, after making the deductions specified in sub-section (b) of this section, should fairly be attributed to each class, and the

amount so ascertained shall be divided by the number of shares of such class of stock outstanding, and the quotient shall be the assessable value of each share of such class of stock.

(e) Shares of stock assessable under this section shall be taxed to the several owners thereof, and the taxes thereon shall be debts of such owners, but may be collected in each case from the bank or other corporation, which shall be bound to pay the same for account of its stockholders whether or not dividends are declared thereon, as if such corporations were the ultimate taxpayer, but may obtain reimbursement therefor from the respective stockholders, and may charge the same in reduction of any amounts due to the several shareholders as dividends or otherwise.

This section sets out the provisions relative to assessing the shares in national banks located in Maryland and the domestic banks, trust companies and other corporations whose shares of stock are taxable. The existing provisions vary somewhat for different kinds of corporations and are contained in several sections of the Code, such as Code, Art. 81, Sections 166, 166A, 167 and 213. The law as now recommended to be passed differs from the existing law (1) in that in ascertaining the total value of the stock it is expressly provided that neither market value of the shares nor earning capacity, nor the net value of the assets shall be controlling, but that all shall be considered, and that the market value of shares due to abnormal conditions and not affording any proper index to the value of the stock as a whole shall not be considered, (2) in that it is provided that any class of corporations whose shares are subject to this tax may deduct mortgages on Maryland real estate, instead of this privilege being confined as at present to fire and life insurance companies, and (3) in that provision is expressly made for the case in which the corporation has two or more classes of stock outstanding.

16 (a). In computing the assessable value of shares of stock in domestic finance corporations, the State Tax Commission shall proceed in the same manner as prescribed in the last preceding section, except (a) that the property and business outside of this State shall be excluded, to the end and intent that so much only of the value of the shares as represents

business done in Maryland shall be taxed, and (b) that in apportioning the value of the shares between the business within and without Maryland, it shall be presumed in the absence of clear evidence to the contrary that the value of the property and business outside of Maryland bears to the value of the total business and property the same ratio which the gross receipts or earnings in Maryland (exclusive of income from permanent investments) bears to the total gross receipts or earnings (exclusive of income from permanent investments). All taxes assessed under this section shall also be subject to the provisions of subdivision (c) of the last preceding section.

(b) The assessment of so much of the capital stock of foreign finance corporations doing business in Maryland as represents the business done in this State shall be computed in the same way as the assessment against the shares of stock of domestic finance corporations, the intention being that a foreign finance corporation doing business in Maryland shall be assessed on its own account in the same amount as it would have been assessed for, on account of its shareholders, if it were a domestic corporation. Nothing in this section shall exempt such corporation from any tax which would otherwise be payable, except ordinary taxes on personal property of any kind, and nothing in this section shall exempt stockholders in any such corporation residing in Maryland from taxes on the value of the shares held by them.

This section prescribes the proposed new method of taxing "finance" corporations, foreign as well as domestic, including any corporation competing in this State with the business of national banks. The nature and object of these proposed changes in the law are set out in the body of the Report of the Commission.

17. At the time of computing the value of the shares of stock in any national bank located in this State, or in any corporation organized under the laws of this State, having a capital stock divided into shares which are subject to valuation and assessment under this article, the State Tax Com-

mission shall determine the value of any stock debt of the City of Baltimore of the character hereinafter in this section described, and shall deduct from the assessed value of the shares of stock of said corporation taxable in the City of Baltimore such proportion of the value of said stock debt of the City of Baltimore as the shares of stock of such corporation taxable in the City of Baltimore bear to the total outstanding taxable shares of stock in said corporation, and the city tax calculated upon the residuc shall be the true amount of taxes payable to the City of Baltimore on shares of capital stock of such corporation. The provisions of this section shall apply only to (1) stock debt of the City of Baltimore owned by such corporation in its own right and not as trustee, or as collateral security, or otherwise, on the first day of October preceeding the year for which such taxes are levied and for six months prior to said first day of October, and (2) stock debt of the City of Baltimore authorized before April 4, 1906; provided that the provisions of this section shall apply to the Baltimore City Burnt District Loan Stock issued under Chapter 468 of the Acts of 1904, the Water Loan stock issued under Chapter 333 of the Acts of 1902, and the Conduit Loan Stock issued under Chapter 246 of the Acts of 1902, at whatsoever time issued. The benefit of this section shall not be allowed unless the officers making the return for such corporation shall state under oath in said return that such investments were held by such corporation at the time and for the period above specified in its own right and not as trustee, agent, or in any fiduciary capacity or as security for a loan, or as collateral security for any payment or other purpose. If any corporation subject to the provisions of this section shall have two or more classes of stock outstanding, the State Tax Commisision shall apportion the value of the stock debt of the City of Baltimore hereinabove mentioned held as aforesaid by such corporation between the several classes of stock according to what said Commission may find to be the taxable value of each class, and shall ap-

ply the deduction herein provided for to the shares, if any, of each class, taxable in the City of Baltimore.

This section embodies a condensation and codification of the credit for certain classes of Baltimore City stock allowed in computing the tax on shares of stock of national banks and domestic corporations whose shares of stock are taxable under this article. The present provisions, which are, it is believed, repeated in substance are found in Code, Art. 81, Sec. 168.

18. Intangible personal property mentioned in Section 6(3), (4) and (5) owned by domestic insurance corporations whether held in reserve funds or otherwise shall be assessed at the actual value thereof in the market as provided in Section 27(b); provided, in case of such corporations having a capital stock, (1) that the aggregate amount of such assessment shall never exceed the aggregate value of shares of stock of such corporation held by residents of this State and by domestic corporations (which would be taxable to said residents and domestic corporations if such insurance corporation were a foreign corporation); and (2) that at least sixty per cent. in view of the total investments of such insurance corporation in stocks, bonds, certificates of indebtedness and evidences of debt of any kind including mortgages shall at all times be invested in stocks, bonds, certificates of indebtedness and evidences of debt and mortgages of the kinds specified in Section 6(3), (4) and (5), and if at any time the amount of such taxable securities shall fall below said percentage, money (including money in bank), bills or accounts receivable, including premiums in course of collection, mortgages on real estate or tangible personal property in Maryland, shares of stock in domestic corporations not otherwise taxed to the holders, and other choses in action, belonging to such corporation and constitutionally taxable by this State, shall, to the extent necessary to bring the total amount of the assessment under this section up to the percentage aforesaid, be assessed and taxed accordingly, and any corporation failing to maintain at least sixty (60) per cent. as aforesaid in such taxable securities shall be deemed to have consented to be

assessed and taxed according to this proviso; and (3) that proviso (1) of this section shall apply only to taxes for the year 1933 and subsequent years, except in the case of corporations incorporated after January 1, 1929; save that if any such corporation incorporated before January 1, 1929, shall after said date consolidate with any other corporation, or if its property or any part thereof shall in any manner be transferred to or devolve upon a corporation incorporated after January 1, 1929, such consolidated or transferee corporation shall for purposes of this section and of Section 27(d) be deemed to have been incorporated prior to January 1, 1929.

This section sets out the proposed new method of assessing domestic "insurance" companies including surety, etc., companies. The object and effect of the proposed changes are fully set out in the body of the Report of the Commission.

19. As soon as possible after assessing either (a) any shares of stock in national banks located in this State or in domestic corporations subject to assessment and taxation hereunder, or (b) any intangible personal property belonging to domestic insurance corporations assessable under Section 18 of this article, or (c) any rolling stock of railroads worked by steam, the State Tax Commission shall apportion such assessments among the counties and/or cities to which the taxes thereon shall be payable under this article, and shall certify such valuations and assessments to the County Commissioners and county collector of each such county and to the Appeal Tax Court or other appropriate taxing authority of each such city, and, in the case of property mentioned in clauses (a) or (b) of this section, to the Comptroller of this State, for collection and payment to the State Treasurer.

This section repeats in substance the provisions of the existing law as to apportionment of assessments on taxable shares of stock in domestic corporations and rolling stock of steam railroads, between the counties and cities of the State in which the same are

taxable, and applies this same provision to the assessments under the proposed new plan of taxing "insurance" corporations, including guarantee, etc., companies.

20. For the purpose of the assessment and collection of ordinary taxes on distilled spirits, it is hereby made the duty of each distiller, and of every owner or proprietor of a bonded or other warehouse, in which distilled spirits are stored and of every person or corporation having custody of such spirits to make report to the State Tax Commission on or before the first day of January in each and every year of all the distilled spirits on hand as of the first day of October preceding, and the tax for the ensuing year from the said first day of January shall be levied and paid on the amount of distilled spirits so in hand as representing the taxable distilled spirits for such year; provided, however, that the same distilled spirits shall not be taxed twice for the same year.

This and the succeeding five sections repeat verbatim the provisions of the existing law as to taxing distilled spirits (Code, Art. 81, Sections 230-239, inclusive), with only a few minor changes advocated by the State Tax Commission in order to harmonize with the scheme of the present draft and with the existing practice. In view of the comparative unimportance of the subject at the present time, it has not been deemed worth while to expend much effort in attempting to reform these provisions.

21. The State Tax Commission upon receiving said report shall, within thirty days thereafter, due notice of the time and place having been given by them, grant unto the said distiller, owner, proprietor or custodian a hearing on the question as to what value shall be placed on the distilled spirits so reported, and thereupon, within ten days after such hearing, the State Tax Commission shall fix the value of such distilled spirits for the purpose of taxation under this Article, and the State Tax Commission shall without delay, transmit and certify the said valuation by mail to the Comptroller of the Treasury, and also to the Appeal Tax Court of Baltimore City and the Board of County Commis-

sioners in the counties where the distilleries are situated, and all distilled spirits upon the valuation and return so made shall be subject to State, municipal and county taxation as all other personal property located within the bounds of the State, city, or county. Immediately upon receipt of the certification of the valuation of such distilled spirits by the Comptroller of the Treasury it shall be his duty to collect from each distiller the amount of State taxes due thereon, which taxes shall be collected by him and paid to the State Treasurer.

22. No distiller, owner or custodian of such distilled spirits shall permit the same to go from his possession or control without the report and payment of tax hereinbefore provided for, and any person or persons or corporations violating the provisions of this section shall be proceeded against by the proper officer authorized to receive said taxes by distraint for the entire amount of the taxes assessed for the current year, and thereupon all such taxes shall become and be immediately due and collectible by distraint, together with all costs attending the proceedings and a further penalty of five hundred dollars for each such violation.

23. It shall be the duty of all distillers, warehousemen and others to exhibit all necessary information on oath if required, to the appeal tax court of Baltimore City, the several boards of county commissioners in the respective counties where distilleries are situate, and to any authorized officer proceeding to execute a distraint or to collect the tax imposed under this sub-title; and a failure so to do upon demand made shall be deemed a misdemeanor and subject to indictment, and upon indictment and conviction shall subject the offender to a fine of not less than fifty dollars nor more than five hundred dollars.

24. Any warehouseman, custodian or agent paying the tax on distilled spirits herein provided for shall have a lien upon the spirits covered by such tax.

25. It shall be the duty of the State Tax Commission to devise and prescribe such forms and blanks for reports and returns as may be needed or useful for carrying out the provisions of Sections 20 to 24, inclusive, of this article.

Notices as to Assessments.

26. (a) Before (1) any existing assessment against any person for the last preceding year shall be increased, or (2) any classification of any property changed, or (3) any assessment against any person transferred to another person, or (4) any new assessment made against any person, either by the State Tax Commission (acting within its original jurisdiction), the County Commissioners, or the Appeal Tax Court of Baltimore City, it shall be the duty of the assessing authority (except in cases where the notice by publication authorized in Section 177 shall have been given) to notify the person against whom it is proposed to make, increase or change such assessment or classification, by a written or printed notice, appointing a day for such person to make answer thereto or present such proof as he may desire in the premises.

(b) Such notice shall be served on such person at least ten days before the day of hearing appointed therein, in the following manner, that is to say, either (1) by personal service in the manner in which original process in an action at law is required to be served by the sheriff, or (2) by leaving a copy of such summons at such person's last place of abode, or (3) by placing a copy of the notice in the United States mail postage prepaid, addressed to such person at his ordinary post office address for the receipt of mail, in a sealed envelope with the return address of the State Tax Commission, County Commissioners, or Appeal Tax Court; as the case may be, on the outside, provided that if such person resides or does business in Baltimore City, it shall be sufficient if said envelope be addressed to the residence or place of

business of such person as it appears in the then latest edition of the Baltimore City directory, and provided also that a record of the date of mailing and manner of addressing said envelope shall be contemporaneously made and carefully preserved among the records of the assessing authority, or (4) if the property to be assessed be real estate situated in Baltimore City having a street number, and the name of the owner is unknown or does not appear in such city directory, then by addressing and mailing an envelope containing a copy of such notice in the manner prescribed in subdivision (3) of this paragraph to such street number, a record being similarly kept of the date and manner of such posting, or (5) if the property to be assessed be real estate or tangible personal property and the owner thereof is unknown or a non-resident or cannot be found or served in any manner hereinabove authorized, then by serving such notice upon the person, if any, in actual custody and possession thereof or if no person be found in actual possession or custody thereof, then by posting the same conspicuously upon such real estate or tangible personal property; provided that if the mail address of such person be known, even though he be a non-resident, it shall be the duty of such taxing authority (though not a condition precedent to the assessment), to mail a copy of the notice to such address.

(c) Such notice may be accompanied by such interrogatories pertinent to the assessment of such property or any other property belonging to the person to whom the notice may be addressed as the State Tax Commission, County Commissioners or Appeal Tax Court, as the case be, may authorize.

(d) Any person notified as aforesaid may make answer to such interrogatories, if any, under oath, either orally or in writing, and appear before the body from which such notice emanates either personally or by an attorney or agent on the day so fixed, or on any later date to which the hear-

ing may be adjourned, and present such proof and arguments as he may desire in the premises; and in the event of his failure to appear as aforesaid the State Tax Commission, County Commissioners or Appeal Tax Court as the case may be, may make or increase the assessment or change the classification *ex parte* according to their best judgment and information.

(e) The provisions of this section requiring notice shall be deemed to be complied with if notice be given to the person charged with payment of the tax, even though he may be liable for account of shareholders or other persons.

The main object of this provision is to comply with the requirement of our Constitution, as interpreted by the Court of Appeals for notice and opportunity to be heard as a condition precedent to any valid assessment. See *Baltimore County vs. Winand*, 77 Md. 522; *Monticello Distilling Co. vs. Baltimore City*, 90 Md. 416; *Gittings vs. Baltimore City*, 95 Md. 419, 425-6. The section codifies, makes more definite, and extends the provisions in this regard of Code Art. 81, Sec. 171. As reasonable notice is a constitutional prerequisite to the validity of any tax levied upon a valuation or assessment, it is certainly the part of wisdom, as well as of justice, to make sure that a proper notice is provided for, and the provision should be so clear that the most ignorant or careless official can have no excuse for erring in this absolutely vital matter.

Rate of Tax.

27. (a) Except as hereinafter in this section provided and as provided in Section 9, all property subject to ordinary taxation in this State, shall pay the full county and/or city rate prevailing for the time being in the county and/or city in which under this article the same is taxable; provided that nothing herein contained shall affect any special rates prevailing under existing local laws in any taxing district, or part of any county or city, or upon any class or classes of property in any taxing district, or part of any county or city.

This sub-section is of course merely a restatement of the existing law.

(b) Intangible personal property subject to taxation under Section 6(3), 6(4) and 6(5) shall be assessed at the

actual value in the market; and upon such valuation shall be paid the regular rate of taxation for State purposes, but in no event more than at the rate of fifteen (15) cents on each one hundred dollars of such valuation, and the rate of thirty (30) cents and no more on each one hundred dollars of such valuation for county and/or city taxation, provided that where under the provisions of this article any property mentioned in this subsection shall be taxable in a city other than the city of Baltimore, there shall be paid on each one hundred dollars of valuation the rate of fifteen (15) cents and no more for city purposes and the rate of fifteen (15) cents and no more for county purposes.

Except as to foreign mortgages this sub-section merely codifies the rate of taxation on securities prescribed by Code Art. 81, sec. 225. As to mortgages on real estate outside of Maryland, the subsection is, as explained in the body of the Commission's Report, a codification of the existing practice of the State Tax Commission rather than of the existing written law.

(c) Shares of stock of every bank, state or national, and trust company, located and doing business in this State, valued and assessed as provided in Section 15 of this article shall pay the regular rate of taxation for State purposes and one dollar and no more on each one hundred dollars of such valuation for county and/or city taxation.

This sub-section repeats the rate of tax now prescribed by Code Art. 81, Sec. 167.

(d) Intangible personal property mentioned in Section 6(3), (4) and (5) belonging to domestic insurance corporations, assessed as provided in Section 18, and to the extent provided in said section the personal property of such corporations mentioned in Section 6(11), shall be subject to taxation at the regular rate of taxation for State purposes, but in no event more than at the rate of fifteen (15) cents on each one hundred dollars of valuation, and at the rate of thirty (30) cents and no more on each one hundred dollars of such valuation for county and/or city purposes; provided that in the case of corporations incorporated prior

to January 1, 1929 (defined as in Section 18), the rate of taxation thereon for State purposes shall be for the year 1930, twenty (20) cents, and no more, for the year 1931, eighteen (18) cents and no more, and for the year 1932 sixteen (16) cents and no more on each one hundred dollars of valuation; and for county and/or city purposes for the year 1930, seventy-five (75) cents and no more, for the year 1931, sixty (60) cents and no more, and for the year 1932, forty-five (45) cents and no more on each one hundred dollars of valuation.

(e) Shares of stock of every domestic finance corporation valued and assessed as provided in Section 16(a) of this article, shall pay the regular rate of taxation for State purposes, and one dollar (\$1.00) and no more on each one hundred dollars of such valuation for county and/or city taxation.

This sub-section is part of the new plan for taxing "finance" corporations. As to domestic companies of that class, it repeats the rate now prescribed by the Act of 1927, ch.

(f) So much of the capital stock of foreign finance corporations as represents business done in this State assessed as provided in Section 16(b), shall pay the regular rate of taxation for State purposes and one dollar (\$1.00) and no more on each one hundred dollars of such valuation for county and/or city taxation.

This sub-section, like the foregoing, is part of the new plan for taxing "finance" corporations.

(g) In any case where property mentioned in sub-divisions (c), (d) and (e) of this section is taxable under the provisions of this article in a city other than the City of Baltimore, the amount so payable for county and city taxes shall be apportioned between such city and the county in which such city is situated in the proportion which the full county tax rate applicable in said city and the full city tax rate respectively bears to the total amount so payable for both county and city taxes on such property.

This sub-section repeats the existing rule of division of taxes on shares of stock in domestic corporations between the counties and cities situated in a county. See Code, Art. 81, Sec. 167.

(h) In any case where property mentioned in subdivision (b) of this section is taxable in a city other than the City of Baltimore, the amount so payable for county and city taxes shall be divided equally between such city and the county in which such city is situated.

This sub-section codifies the existing law as laid down in *Frederick County vs. Frederick City*, 88 Md. 655.

For What Period and as of What Date Taxes Are Levied.

28. (a) Except as in this article provided, all ordinary State and county and/or city taxes shall be levied for the calendar year; and the person to whom property, real or personal, tangible or intangible, shall be taxed, and the liability of any such property to, or the valuation thereof for, taxation shall be determined as of the first day of October of the year preceeding that for which the tax shall be levied; provided that in any case when the value on October 1st is abnormal due to a corner in the market or other unusual conditions a fair average value for the preceeding year may be taken.

The foregoing and the remaining sub-divisions of this section are parts of the plan to establish a uniform date of finality and a uniform tax year throughout the State. The nature of this plan and the reasons for its adoption are explained in the body of the Report of the Tax Revision Commission.

(b) If under pre-existing law, taxes for any county and/or city shall have been levied before June 1, 1929, for a taxable year ending after said date said taxes shall be collected as if this act had never been passed; and taxes for such county and/or city shall be levied hereunder proportioned for the fraction of a year from the end of such taxable year to the next succeeding end of a calendar year, and in such case the person to whom property, real or personal, tangible or intangible, shall be taxed, and the liability of any property, real or personal, tangible or intangible, to taxation, and the value thereof shall be determined for such fraction of a year as of three months prior to the ending of such taxable year; and generally any references in this article to the first day of October shall, as to taxes for such fractional period, be deemed

to refer to a date three months before the ending of such taxable year, and any references to other dates shall in respect to the tax imposed by this sub-section be moved forward or backward accordingly.

(e) If taxes for any county and/or city under pre-existing law would have been levied subsequent to June 1, 1929, for a year beginning prior to December 31st, 1929, a proportionate part of such taxes shall be levied, assessed and collected as if this act had never been passed, but proportioned for the portion of such year to the end of the calendar year 1929.

(d) Wherever under sub-division (b) or (c) of this section, a fractional levy shall be required in any county and/or city, the County Commissioners of such county or the legislative department of said city may in their discretion add such fractional levy to the levy for the next succeeding calendar year, making one combined levy for the year and a fraction.

(e) All county and/or city taxes for the calendar year 1931, and subsequent years, shall be levied hereunder for the calendar year on the property and against the persons mentioned in paragraph (a) of this section.

(f) Nothing in this act contained shall affect State taxes due and payable on July 1, 1929, but such taxes shall be collected and paid as if this act had never been passed.

(g) All State taxes for the calendar year 1930 and subsequent years shall be levied hereunder on the property and against the persons mentioned in sub-division (a) of this section and shall be assessed and collected hereunder.

Levy.

29. As soon as may be practicable after the first day of October in each year and in any event before the first day of

January of the year for which the taxes are levied the County Commissioners of each county and the legislative department of the Mayor and City Council of Baltimore or any other city shall fix the rate of county or city taxation for such ensuing year for which the rate is not fixed by this article; provided that where any fixed or limited rate of county and/or city taxes is prescribed by this article, such county and/or city taxes are hereby levied at such respective rates upon all assessments, persons and property liable thereto under the provisions of this article, and it shall not be necessary for the County Commissioners of any county or the legislative department of any city to pass any resolution or ordinance levying the same.

This and the two succeeding sections are substitutes for Code, Art. 81, Secs. 34-37, and are part of the plan for an automatic levy of all local taxes for which the rate is fixed by the General Assembly and of all State taxes whatsoever, leaving the County Commissioners and the various cities in the State the function of levying taxes only when they have to fix the rate and therefore exercise something more than mere ministerial duties. The reasons for this change, which of course makes no substantive alteration in the law but merely cuts out a mass of red tape, have been fully set out in the body of the Commission's Report.

30. State taxes at the rate of State taxation as fixed from time to time by the General Assembly for each year, and where any fixed or limited rates of State taxation are prescribed by this Article then at such respective rates, are hereby levied annually upon all assessments, persons and property liable to such taxes respectively under the provisions of this Article, and it shall not be necessary for the County Commissioners of any county or the Mayor and City Council of Baltimore to pass any ordinance or resolution levying any State taxes.

31. In case any property which by law is subject to assessment and taxation has escaped, such property shall be entered upon the assessment rolls at any time and shall be subject to taxation for current and previous years, not exceed-

ing four years in all, in the same manner as other property is subject to taxation. The levy for each and every year by the County Commissioners of the several counties and by any city shall be deemed and taken to have covered and embraced all property which was not assessed, but which ought to have been assessed, for the year for which any such levy was made.

Assessors and Discovery of Taxable Property.

32. The County Commissioners of the several counties and the Appeal Tax Court of Baltimore City shall appoint such number of assessors as they may deem necessary, provided that in the case of the Appeal Tax Court the number of such assessors shall not exceed that authorized by ordinance.

This section is, of course, merely declaratory of the existing practice, but, strange as it may seem, there appears to be no provision in the Code of Public General Laws expressly authorizing this practice.

33. The assessors so appointed shall annually inform themselves by all lawful means of all property, tangible or intangible, liable to assessment and taxation in the county, district or city for which said assessors are appointed and act, and not already assessed, or insufficiently or incorrectly assessed, and shall value the same and make return thereof to the County Commissioners or Appeal Tax Court for the purpose of assessment by the County Commissioners or Appeal Tax Court to the owner according to law.

This is substantially a repetition of Code, Art. 81, Sec. 13.

34. The assessors shall be allowed such compensation for the performance of their duties as assessors as the County Commissioners by resolution or the Mayor and City Council of Baltimore by ordinance shall direct.

This repeats Code, Art. 81, Sec. 16, with a removal of a penal clause.

35. The several Registers of Wills in this State shall annually, on or before the first day of September, return to the County Commissioners or Appeal Tax Court a summary account of all property liable to assessment and taxation hereunder, that shall appear by the records of the several orphans' courts to be in the hands of each executor, administrator or guardian as such; and all such property, if not before assessed, shall then be assessed; and the said Register, for the duties imposed by this section, shall be allowed such compensation as the County Commissioners or the Mayor and City Council of Baltimore may deem proper.

This repeats Code, Art. 81, Sec. 18.

36. In all cases where discoveries of assessable property are made by the assessors, County Commissioners or Appeal Tax Court of Baltimore City in any way, the said County Commissioners or Appeal Tax Court shall assess the same and add the same to the amount on which taxes are to be or have been levied.

This repeats Code, Art. 81, Sec. 19.

37. The Commissioner of the Land Office shall annually, on or before the first day of September, make out and transmit through mail to the County Commissioners, or to the Appeal Tax Court, a list of all certificates which have become ready for patent, expressing the name of the land, the quantity it contains, and the person who is entitled to patent; and, in case the resurvey when vacancy has been added, the names of the original tracts and the quantity of vacancy added.

This and the next succeeding section are an adaptation of Code, Art. 81, Sec. 21.

38. The County Commissioners and Appeal Tax Court shall annually, effective for the succeeding levy, alter and correct the account of any person who may have disposed of or acquired any property since the last assessment or whose property or any part thereof may have been omitted,

if the report of such disposition, acquisition or omission be supplied by satisfactory evidence; and if real estate or other property shall from any cause have increased or diminished in value since the last assessment, the County Commissioners or Appeal Tax Court shall correct and alter the assessment of the same, so as to conform to its present value.

This substantially repeats Code, Art. 81, Sec. 22.

39. The County Commissioners and Appeal Tax Court shall annually correct the assessments in their respective counties and city, and alter and correct the valuation of any property which may have been improperly valued, or the value of which may have changed, and assess any property which has been omitted or may have been since acquired.

40. Whenever any person shall make application for an allowance or deduction on account of the sale, transfer, alienation, loss or removal of any property, or the collection or payment of any public or private security for money, the County Commissioners or Appeal Tax Court may interrogate him on oath in reference thereto and the disposal of the same, and especially inquire of him to whom the same has been sold or transferred and the amount of the purchase money or the money collected and how the same has been invested, and in case of removal of property or change of residence, the location of the place to which the same is removed or to which the residence is changed; and if from the information so gathered, or from any other source, the County Commissioners or the Appeal Tax Court shall learn of property which ought to be assessed in some other county and/or city in this State they shall communicate with the proper authorities of such county and/or city. The County Commissioners or Appeal Tax Court may also interrogate said person on oath in reference to any acquisitions or investments made by him and not already assessed and the amount of all such acquisitions and investments shall be added to his assessable property.

41. The State Tax Commission, the County Commissioners and the Appeal Tax Court shall have the power to summon before them any person, or representatives of corporations, whom they may know or be credibly informed to have acquired new property subject to taxation or whose account of taxable property may in their judgment require revision, and examine such person on oath touching the same, and in connection therewith shall have power to summon before them witnesses and interrogate them under oath in reference to the case then pending; and any person summoned and refusing to appear, or appearing and refusing to answer any relevant question to the pending case, shall be proceeded against by the State Tax Commission, the County Commissioners or the Appeal Tax Court in the manner provided in Section 165 of this Article.

This is an adaptation of Code, Art. 81, Sec. 23.

42. Every person who shall remove to any county or city from the county or city in which his property has been assessed, or from any other place without the State, and whose personal property has not been assessed for the county or city to which he has removed, or any other person whose property or some part thereof has not been assessed or is suspected not to have been assessed, shall, when required by the County Commissioners or their assessors, in which his personal property or the personal property under his care or management doth lie, or by the Appeal Tax Court for the City of Baltimore, give to such County Commissioners, their assessors or Appeal Tax Court a full and particular account of his personal property, tangible or intangible, assessable hereunder in said county and/or city, and of all the personal property in his possession or under his care and management, liable to be assessed, and which before that time shall not have been assessed in the said county or city, and the name of the person to whom it belongs.

This is a repetition of Code, Art. 81, Sec. 27

43. If any person shall, when required by the County Commissioners, their assessors, or by the Appeal Tax Court, after ten days' notice, neglect to render the account required in the last preceding section, said County Commissioners or Appeal Tax Court shall, on their own knowledge, and on the best information they can obtain, value and assess the property of such person to the utmost sum they believe the same to be worth in cash and notify such person of the assessment and valuation thereof, with opportunity for hearing thereon.

This is a re-enactment of Code, Art. 81, Sec. 28, with an amendment eliminating a harsh and unnecessary provision as to forfeiture of the right of appeal, and permitting a hearing.

44. Whenever any person shall apply to the County Commissioners or Appeal Tax Court for allowance or deduction on account of the removal of property from one county and/or city to another, or on account of change of residence from one county and/or city to another, the County Commissioners or said court to whom the application shall be made shall ascertain of the party applying to what place within the State his residence has been changed or the property has been removed, and shall inform the proper authorities of the place to which the property is removed of the fact of such removal.

This section re-enacts Code, Art. 81, Sec. 29, with little more than clerical amendments.

Record of Assessments.

45. The County Commissioners and Appeal Tax Court shall cause their clerk to enter and record in a book or books to be provided for the purpose an accurate and fair account of all property of every sort assessed within their county or city and the valuation thereof and an alphabetical list of the owners thereof properly arranged according to the election districts, and the several wards in the City of Baltimore, which any person may inspect without fee or reward. In

the record of the assessments of stocks, bonds or other investments, the nature thereof shall be briefly stated and the taxable value of each; but the details thereof shall not be open to inspection except by the taxpayer or by officers of the State and/or any city affected thereby.

This re-enacts Code, Art. 81, Sec. 31, with the incorporation of one provision of Code, Art. 81, Sec. 213, and an amendment providing that the details of the assessments shall not be open to the public promiscuously, continuing in the latter respect the existing law.

46. As soon after October 1st as is practicable, and before January 1st, in each year, the County Commissioners of the several counties and the Appeal Tax Court of Baltimore City shall prepare and deliver to the Collector a book or statement showing the valuation and assessment of all property subject to taxation in such county and Baltimore City as it shall appear upon the assessment books of the County Commissioners or the Appeal Tax Court on said first day of October; such book or statement shall contain a full list of all the real estate and improvements thereon as the same has been valued and assessed with the owners thereof as appearing on the records of the County Commissioners or Appeal Tax Court (and in Baltimore City it shall be by blocks corresponding so far as possible with the block numbers used in the Record Office of the Superior Court of Baltimore City) with the location and description of each piece or parcel of ground so assessed and valued, and shall also contain an alphabetical list of all persons to whom personal property has been assessed with the amounts of such assessments, and of the several classes thereof bearing different rates of taxation. The said book or statement shall as to property listed thereon be designated as the tax roll for the succeeding year. The County Commissioners of the several counties shall certify to the Collector of Taxes the various rates of taxation applicable to the several classes of property contained in said book or statement, including the classes of property to be certified to

such collector by the State Tax Commission and subject to taxation in such county.

This section provides for an annual tax roll to be delivered to the several collectors, as their guide in the performance of their duties in collecting the taxes upon the assessments shown thereon. The matter now seems to be controlled by local laws in each county, very diverse in form. The present provision is modelled on that now in force in Harford County and Baltimore City. Something of the sort is absolutely necessary if there is to be any uniformity in the matter of taxation.

47. At the time of furnishing the statement required in the last preceding section, the County Commissioners of the several counties and the Appeal Tax Court shall prepare and certify to the Comptroller of the State and to the State Tax Commission a statement of the total basis of assessment subject to taxation which shall be separated so as to show by totals the assessed value of land, the assessed value of improvements on the land, and tangible and intangible personal property, in such form as may be prescribed by the Comptroller and the State Tax Commission.

This section covers in somewhat different language the subject-matter now covered by Code, Art. 81, Sec. 32.

When Taxes Are Payable.

48. All ordinary State, county and/or city taxes levied under this Article for a calendar year, shall be due and payable on and after the first day of January of the year for which they are levied. From all such county and/or city taxes paid before the first day of March of such year a discount of one per cent. shall be allowed; and if paid before the first day of July of such year, a discount of one-fourth of one per cent. a month for each full month intervening between the date of payment and such first day of July. After July 1st in such year, all such State, county and city taxes remaining unpaid shall be in arrears and bear interest at the rate of one-half of one per cent. for each month, or

fraction thereof, which shall have elapsed after the said first day of July down to the date of payment.

This section is part of the provisions prescribing a uniform tax-year and uniform due-dates of taxes throughout the State. The whole matter is discussed at length in the body of the Report of the Tax Revision Commission.

49. When under section 28 of this article, taxes are levied for a fraction of a year, they shall be due and payable on and after the first day of such fraction of a year, and discounts shall be allowed therefrom and interest charged thereon at the same rate per month thereafter (as provided in the last preceding section), as if the first day of such period were the first day of January, the first day of the second month thereafter, the first day of March, the first day of the sixth month thereafter, the first day of July, and so on, and generally all dates prescribed in this article shall be moved forward or backward accordingly.

This section provides for the period of readjustment in changing from a fiscal year to a calendar year basis.

Collectors and Collections.

50. The County Commissioners of the several counties where a collector is not otherwise selected by law shall, on or before January 1st in each year, appoint a collector or collectors for their respective counties, whose duty it shall be to collect as certified to him all state and county taxes levied or to be levied for the current year; and, such collectors shall receive such compensation as is now or may hereafter be prescribed by law, provided no such collector shall receive any separate compensation for collecting state taxes. In and for Baltimore City the collector shall be appointed in the mode prescribed by the Act of 1898, chapter 123, sections 25 and 42. Every collector before he acts as such shall take the oath prescribed by section 60 of Article I of the Constitution.

This section relates to the appointment of collectors or treasurers, and is an adaptation of Code, Art. 81, Sec. 39, with amendments to

make unnecessary the exception of certain counties, and an addition requiring such officials to take the constitutional oath instead of the unconstitutional oath now prescribed by Code, Art. 81, Sec. 44.

51. As to county taxes every collector before he acts as such shall give bond to the State of Maryland in a penalty of the amount of such taxes to be collected by him, with good and sufficient sureties to be approved by the County Commissioners; and the collector of city taxes in the City of Baltimore before he acts as such shall give bond in such penalty as may be prescribed by the ordinances of the Mayor and City Council to be approved by the Mayor and President of the City Council, with the condition that if the above bound * * * shall well and faithfully execute his office and shall account for and pay to the County Commissioners, or to the Mayor and City Council of Baltimore, if in said city, or their order, the several sums of money which he shall receive for the county or city, as the case may be, or be answerable for by law, at such times as the law shall direct, then the said obligation to be void, otherwise to be and remain in full force and virtue in law.

This section deals with the matter of the bonds of collectors and treasurers in the counties and Baltimore City as to local taxes—a matter now covered in slightly different terms by Code, Art. 81, Sec. 40.

52. Every such collector in the counties shall also give a separate bond to the State of Maryland in a penalty of the amount of the tax to be collected by him, with good and sufficient sureties, to be approved by the Governor, with the condition that if the above bound * * * shall well and faithfully execute his office and shall account for to the Comptroller and pay to the Treasurer of the State the several sums of money which he shall receive for the State, or be answerable for by law, at such times as the law shall direct, then the said obligation to be void, otherwise to remain in full force and effect. The city collector in the City of Baltimore before he acts as collector of State taxes in said city shall give a bond

with good and sufficient sureties to the State of Maryland in a penalty of seventy-five thousand dollars, to be approved by the Governor, with the condition that if the above bound * * * shall well and faithfully execute his office and shall account with the Comptroller for and pay to the Treasurer of the State the several sums of money which he shall receive for the State, or be answerable for by law, at such times as the law shall direct, then such obligation to be void, otherwise to remain in full force and virtue in law; the said collector's bonds, when approved by the county commissioners, shall be recorded in the office of the Clerk of the Circuit Court for the respective counties; when approved by the proper authorities in the City of Baltimore shall be recorded in the office of the clerk of the Superior Court of Baltimore City and when approved by the Governor shall be filed in the office of the Comptroller of the Treasury.

This section prescribes the bond to be given by the City Collector in Baltimore City and the several county collectors or treasurers as collectors of State taxes—a matter now covered by Code, Art. 81, Sec. 41.

53. The collector of State taxes in the City of Baltimore shall make daily deposits of such sums of money as he shall receive for State Taxes collected by him to the credit of the Treasurer of the State of Maryland in some bank or trust company in said city to be designated by the said Treasurer, and shall send to the Treasurer a statement of the amount so deposited within the first ten days of each month with a certificate of the bank or trust company that the same is so deposited. The collectors in every county shall make monthly returns of State taxes to the Comptroller and remittances to the State Treasurer not later than the tenth day of the month next succeeding the date of collection of the amounts of state taxes collected. On failure of the collector in Baltimore City to make such daily deposits and to send such certificates, or on failure of the county collector to make returns and remittances as aforesaid, such collector so default-

ing shall, on proof thereof to the satisfaction of the Governor, be liable to removal from office by the Governor, and the Comptroller may enter suit upon the bond of such defaulting collector.

This section re-enacts Code, Art. 81, Sec. 42, relating to the duty of the City Collector in Baltimore City as to making daily deposits of State taxes, and adds an amendment prescribing the duty of the county collectors or treasurers in respect to the disposition of State taxes.

54. The Treasurer of the State or his appointee in writing may make as often as he may deem proper an examination of the books of the collector of State taxes in Baltimore City and in any county, whose books shall always be open to such inspection.

This section substantially re-enacts Code, Art. 81, Sec. 43, with an amendment making the provision applicable, as it obviously should be, to the counties as well as to Baltimore City.

55. If any collector shall fail to give bond as herein required within twenty days after his selection, the County Commissioners or Mayor and City Council of Baltimore, as the case may be, shall immediately appoint another in his place and shall continue after twenty days to make such appointment until a collector shall give bond as directed.

This section substantially re-enacts Code, Art. 81, Sec. 45.

56. The clerks of the County Commissioners and the register of the City of Baltimore shall annually, on or before the first day of January, inform the Governor whether there is in their several counties and the said city, a collector or collectors of the State taxes, duly selected and qualified in conformity with the provisions of this article.

This section re-enacts Code, Art. 81, Sec. 46.

57. If there be no collector of State taxes selected and qualified in conformity with the foregoing provisions, in any of the counties or in said city, by the fifteenth day of January in any year, the Governor shall appoint from any

part of the State a collector or collectors for said county or the said city, who shall give bond with good and sufficient sureties to be approved by the Governor, which shall be in all respects on a footing with other state collectors' bonds as provided in this article, and the said collector shall have all the powers of other collectors.

This section re-enacts Code, Art. 81, Sec. 47.

58. If any collector, appointed under the preceding section, shall fail to give bond within thirty days, the Governor shall appoint another in his place, and so on after every interval of thirty days, until a collector shall qualify.

This section re-enacts Code, Art. 81, Sec. 48.

59. Every collector receiving the tax rolls provided for in Section 46 of this Article, as well as certifications of assessments from the State Tax Commission, shall proceed to collect the taxes due thereon and payable to him with any penalty or interest imposed by law, and shall pay the county and city taxes collected to the County Commissioners, or the Mayor and City Council of Baltimore, as the case may be, or their order, not later than the tenth day of each month, which payments shall include all taxes collected during the month next preceding; and all monies levied for educational purposes by the County Commissioners of the several counties shall be levied separately and distinctly from the other items of taxation and a list thereof furnished to the School Commissioners of said counties; and the collector shall make return of all said taxes collected upon the days required by law for the return of these State School Taxes.

This section substantially re-enacts Code, Art. 81, Sec. 52, with an amendment removing a now superfluous penal clause.

60. The State Comptroller shall see to the collection of all State taxes at the rates prescribed by law on the various classes of property, assessments against which are certified

directly to him and on which taxes are payable directly into the treasury of the State as provided by this article.

This section is doubtless declaratory merely, and sets forth the duty of the Comptroller as to the collection of such State taxes as are payable directly to the treasury and not through the agency of the local collectors.

61. If any collector shall fail to pay into the treasury of the State or to the County Commissioners the amount of money which may or should be in his hands for the use of the State or the County Commissioners, at the time specified in this article for payment, he shall be charged interest thereon at the rate of six per centum per annum, from the time the said money became due and payable.

This section re-enacts Code, Art. 81, Sec. 79, with an amendment extending the provision to County Taxes.

62. In all cases in which any collector of State, county and/or city taxes shall fail to pay the amount due and payable by him, at the time specified by law, to the State Treasurer, or other official authorized by law to receive the same, the Comptroller or other competent authority may, in his discretion, order a suit upon his bond.

This section re-enacts Code, Art. 81, Sec. 80, with amendments extending its operation to County and City Taxes.

63. When the Comptroller shall order suit upon a collector's bond he shall transmit to the Attorney-General a statement of the account of such collector, and upon the account so transmitted, signed and certified by the Comptroller, and on motion being made on behalf of the State, judgment shall be entered at the first term of the court in which suit may have been brought, in the name of the State against such collector and his sureties; provided, ten days' previous notice in writing be delivered to such collector and his sureties or left at their place of abode, signed by the said attorney, and it shall be the duty of the sheriff to serve such notice, and

proof of such service shall be made to the satisfaction of the court before such judgment shall be entered.

This section re-enacts Code, Art. 81, Sec. 81, with amendments to conform to the present law (Code, Art. 32A, Sec. 3) which puts such suits under the control of the Attorney-General.

64. If such collector or his sureties shall, in person or by attorney, demand a trial by jury of any matter in controversy in said suit, which shall by them be pleaded, the court shall thereupon direct a jury to be empanelled at the said term to try and determine the matter in controversy, and all such suits shall be tried at the said term.

This section re-enacts Code, Art. 81, Sec. 82.

65. No payment of any money due the State, either in suit or on judgment, shall be valid and effectual unless made to the Attorney-General or to the Treasurer, or unless made to such sheriff, coroner or elisor as may be authorized to receive the same by virtue of any execution issued to enforce the payment thereof.

This section re-enacts Code, Art. 81, Sec. 84, with amendments to conform to the present law (Code, Art. 32A, Sec. 3), which requires such suits to be prosecuted by the Attorney-General.

66. The County Commissioners and the Appeal Tax Court as to county or Baltimore City taxes, and the Comptroller upon certificates of the County Commissioners or Appeal Tax Court as to State taxes, shall make all just allowances to collectors for insolvencies and removals.

This section re-enacts Code, Art. 81, Sec. 85, with amendments extending its operation to county and city as well as State taxes.

67. Whenever in any action or proceeding for the recovery of taxes either from the person by whom they are payable or from any person collecting the same, real estate, or property of any description shall have been seized and taken in execution at the suit of the State, the Comptroller may bid for and purchase the same at the sale thereof, for the use of the State, if, in his opinion, it shall be necessary and proper

to do so for the protection of the interest of the State; provided, the sum bid shall in no case exceed the amount of the State's demand and the costs and expenses of sale.

This section re-enacts Code, Art. 81, Sec. 87, with an amendment making clear that it is applicable only to suits for the recovery of taxes, as would probably be the correct construction of the existing law.

68. Whenever, by death, resignation, expiration of term of office or otherwise, one collector shall be succeeded by another, the succeeding collector shall, as to any taxes which ought to or could or might have been, but were not, collected by the former collector, possess all the powers of the former collector.

Cf. Code, Art. 81, Sec. 92. See also Sec. 81, *infra*.

Tax Sales.

69. All State and county and city taxes on real estate shall be liens on the real estate in respect of which they are levied from the date they become payable.

This section re-enacts Code, Art. 81, Sec. 56, with an amendment making clear that the lien extends only to taxes on real estate and covers only the real estate in respect of which the taxes are due.

70. At least two weeks prior to July first, when taxes shall be in arrears as provided in Section 48 of this article, the collector of each county of this State, in at least one newspaper published in such county, and the City Collector of the Mayor and City Council of Baltimore in at least two newspapers published in such city, shall give notice that the taxes then remaining unpaid will be in arrears on said July first and that the real estate on which such taxes, both State and county or Baltimore City, are levied and remaining unpaid will thereafter be subject to be sold as provided by law.

This section is modelled on Baltimore City Charter (Ed. of 1927), Sec. 51.

71. In the month of November succeeding each levy the collector of the several counties, and the City Collector of Baltimore City, shall make out all tax bills which have not been paid (in the counties the bills to be in duplicate) and the Collectors of the Counties shall deliver the same to the several constables or deputy sheriffs of the district wherein the property assessed is located, or the owners reside, to be served upon the parties owning the same and each bill shall contain a notice that if the same be not paid on or before the first day of the succeeding February, the property upon which such tax may be owing, will be levied upon and sold to enforce payment thereof; there shall be added by the Collector of the several counties to the principal sum of the State and county taxes and interest thereon the additional sum of twenty-five cents for payment of the costs of service of such bills, twenty cents thereof to be paid, when collected, to the constable or deputy sheriff for each tax bill and notice served by him, the remaining five cents to be retained by the County Collector for making out and delivering the bills. The bills and notices so made out shall be placed in the hands of the said constables or deputy sheriffs on or before the first Monday in December and one copy of each bill and notice shall within thirty days after receipt be served by such constable or deputy sheriff upon the person or persons or corporation so in arrears and against whom it is made out, or on one of them if more than one, or in the event of failure to find such person in the district of the county, to be left with the agent of such person or conspicuously posted on the property assessed. The constables and deputy sheriff receiving such bills shall enter upon one copy the time and manner of service made and return the same to the Collector of the county issuing the same within thirty days after service. Any constable or deputy sheriff who shall make a false return under the provisions of this section shall be liable to indictment therefor and upon conviction shall pay a fine of fifty dollars, one-half to go to the informer. In Baltimore City,

the City Collector shall deposit in the mail said bills with the notice under cover, with the return address of the City Collector on the outside, directed to the place of residence of the person to be notified or to the address of such person as it may appear upon the records of the City Collector, and in the absence of an address on said record, then as it shall appear by the last published Baltimore City Directory, or, if not contained in such directory, then to the address of the property (if real estate) for delivery to the occupant thereof and the same shall be deemed *prima facie* to be served if the same is so deposited in the mail and is not returned as undelivered and the said City Collector shall, for the purpose of preserving a record of the service of such notice by mail, note in a book the date of placing in the mails the envelope or cover containing such notice.

This section is modelled on Offutt's Code of Public Local Laws of Baltimore County, Sec. 147. The portion as to mailing bills in Baltimore City is from the Baltimore City Charter (Ed. of 1927), Sec. 42A.

72. After the proceedings required by the preceding section shall have been had, if any taxes or assessment for State and/or County or Baltimore City purposes of any nature or kind whatsoever levied or charged against any part or parcel of ground, improved or unimproved, held in freehold or by lease, shall not be paid on or before the first day of February in the year succeeding that for which the same were levied, the Collector thereof shall proceed within six months from said first day of February to enforce payment of the same by distraint, levy or execution, upon said parcel of land of the party failing to pay, such levy, distraint or execution to be made upon the premises and notice thereof to be given with a statement attached, showing all taxes due, interest, penalties and costs, including that of the levy, to the person so in arrears, or one of them, if more than one, if in possession of the property, otherwise to be conspicuously posted on the premises so to be sold for taxes.

There shall be incorporated in said notice a warning that if the statement for taxes, interest, penalties and costs be not paid within thirty days, the property levied upon will be sold at public sale, and the Collector is hereby authorized to expose any property so levied upon at public sale at the expiration of said thirty days after having given, in Baltimore City, notice of the time and place of sale by advertisement once a week for four successive weeks in at least two of the daily newspapers published in Baltimore City, and in the counties, notice of the time and place of sale by advertisement once a week for three successive weeks in at least one newspaper published in the county and by printed hand bills publicly posted at the Court House door and at least ten places in the district where the property is located, one of such notices to be placed upon the premises. Any advertised notice of sale in the counties shall be deemed sufficient if it contains the house and place, the year or years for which taxes are due, to whom assessed, the district where located, the quantity of land, if there be recorded evidence thereof and a reference to the book or folio where the deed for said property may be found, and the date of the deed. In Baltimore City, the advertisement shall give the name and street number of the real estate and with substantial accuracy the frontage and depth of the lot, to whom last assessed, the year or years for which taxes are due and the amount thereof. In no case shall a description by metes and bounds be necessary nor shall a greater amount than four dollars be paid for any newspaper advertisement as to each piece of property advertised. In the counties, whenever real estate is susceptible of division so that a part thereof will sell for enough to pay the taxes due, interest, penalties and all costs, the Collector may, in his discretion, employ a surveyor to divide the same and tax as a part of the costs such compensation for the surveyor's services as may be just, not exceeding the sum of five dollars, and in Baltimore City, whenever it shall be necessary to properly describe property, the City Collector

shall procure a description from the land records and no survey shall be made unless a proper description cannot be obtained from the Land Records, and when a survey is necessary the City Collector shall direct the City Surveyor to make a proper survey, furnish a description and plat to the Collector for a charge not exceeding three dollars, the same to be taxed as part of the costs. The power under this section to sell real estate of a delinquent taxpayer for non-payment of taxes, State, county or city, shall exist notwithstanding the existence of personal property of the delinquent.

The procedure here set out is substantially that prevailing in Baltimore County (See Offutt's Code of Public Local Laws of Baltimore County, Sec. 148), and in Baltimore City (See Baltimore City Charter, Ed. of 1927, Secs. 43, 43A, 48 and 48A). See also Code, Art. 81, Sec. 59.

73. When any parcel or parcels of ground, improved or unimproved, shall be chargeable with payment of taxes and such parcel or parcels of ground be subject to a ground rent or lease for a term of years, renewable forever, it shall be the duty of the Collector, if his books disclose the fact of such ground rent or lease or if he be actually notified thereof prior to the sale, to sell the leasehold interest only with the improvements erected thereon, if any; provided that in case the leasehold interest and improvements shall not sell for the amount necessary to pay the taxes due on said parcel or parcels of ground together with all costs, charges and interest, then the Collector shall sell the whole fee simple of such parcel or parcels of ground.

This section is a codification of Baltimore City Code (Ed. of 1927), Art. 46, Sec. 53.

74. The collector shall require the purchaser of any real estate sold to pay on the day of sale, or the day following, the full amount of the purchase price which shall be retained by the collector until the final ratification of the sale; and within thirty days from the day of sale the collector shall report the same with the amount thereof and all proceed-

ings relating thereto, including a statement of taxes, charges and all costs incident to the sale, to the Circuit Court of the county sitting in equity, the Circuit Court or the Circuit Court No. 2 of Baltimore City, as the case may be. The Court shall examine the proceedings and if the same appear to be regular and the provisions of law relating thereto have been complied with, shall enter an order nisi, similar to and published in the same manner as in case of judicial sales by trustees, warning all persons interested in the property sold to appear on or before the day designated in such order to show cause why the same should not be finally ratified and confirmed on a day to be designated in said order which shall not be less than thirty nor more than sixty days from the date of the order. The purchaser at any such sale shall be deemed to be a party in interest in the same manner as a purchaser at an ordinary judicial sale. Such order nisi shall be published in such manner as the court shall direct but not less than once a week for four different weeks. At the time of entering said order there shall issue out of the court a subpoena directed to the person against whom the tax or assessment is last charged as shown on the books and report of the collector commanding such person within the time limited in the order nisi to show cause by such time why the sale should not be finally ratified and confirmed. Said subpoena if practicable shall be served by the sheriff upon such person, and also upon any person who may be found in actual possession of the property, and if no person be in such actual possession, shall be conspicuously posted by the sheriff on the property. The sheriff shall make his return within thirty days from receiving the subpoena showing precisely the manner of service. Said court shall have power to regulate the proceedings hereunder by rules of court not inconsistent with law or with the equity rules of the Court of Appeals applicable thereto. From the action of the court in ratifying or refusing to ratify a sale after exceptions filed thereto, any party to the cause

may appeal to the Court of Appeals, such appeal to be taken within the same time and in the same manner as other appeals in equity cases.

As to the time of payment of the purchase price, the provisions of Baltimore City Charter (Ed. of 1927), Sec. 44, are followed. The procedure as to reporting the sale is taken in part from Code, Art. 81, Sec. 61, and in part from Offutt's Baltimore County Code, Sec. 149, and Baltimore City Charter (Ed. of 1927), Sec. 48. New provisions are inserted as to exceptions and issuance of subpoena which not only go far to insure actual notice to the owner in time to redeem, but also give a validity to tax sales and a marketability to tax titles now wholly lacking and thus enable a fair price to be obtained for the property. At present no one purchases at a tax sale except a speculator, and the property is always sacrificed. The result of the sale is that neither the purchasers nor the original owner has a marketable title, and the land is practically put *extra commercium*.

75. Upon the final ratification of the sale, the collector shall after retaining out of the proceeds of the sale the amount of all taxes, interest and penalties thereon, together with all court costs, costs of notice, levy, sale and report of sale, execute, acknowledge and deliver a deed conveying to the purchaser the property purchased and such deed shall convey a conclusive title to the property sold and conveyed as against any person or persons who may have been personally served with subpoena as aforesaid, and all persons claiming by, under or through him or them by virtue of any conveyance or transfer or transmission of title subsequent to the service of said subpoena, and a prima facie title as against all other persons.

This section is substantially Code, Art. 81, Sec. 61. See also Offutt's Baltimore County Code, Sec. 149.

76. Any excess of the proceeds of sale remaining in the hands of the collector after retaining the amounts allowed by law shall be paid to the owner of the property sold; and if the owner cannot, after reasonable effort, be found, or if such owner refuse to receive said balance, then the Collector of the County or the City Register of Baltimore City shall

deposit the same under order of court in bank for the benefit of such owner, the same to be paid such owner upon demand.

This section is modelled on Offutt's Baltimore County Code, Sec. 149.

77. If within the time limited by the order of court sufficient cause be shown to the court for so doing, the sale shall be set aside, in which case the collector shall proceed, if all taxes be not paid, within thirty days, to a new sale of the property, and shall refund to the previous purchaser the entire amount paid by him at such sale; provided no sale shall be set aside if the provisions of law shall appear to be substantially complied with, and if the title passing to the purchaser thereunder would be good and merchantable (in fee simple unless some lesser estate was expressly sold); and no such proceeding shall be referred to a master in chancery. If any purchaser, upon the sale being set aside, shall refuse to receive the fund which the collector shall tender, the same shall be reported to the court and the latter shall direct its deposit in bank for the benefit of such purchaser, the same to be paid him upon demand. The bond of every collector shall be liable for default in not refunding to the proper person any sum or sums which may be due on account of any sale.

See Code, Art. 81, Sec. 61, and Baltimore City Charter (Ed. of 1927), Secs. 48 and 48A.

78. In all cases of the sale of real estate under this article, the owner or other person having an interest in the property prior to the sale (including the owner of a reversionary interest) may redeem the same at any time within one year from the day of sale by repayment to the purchaser thereof the amount paid by him with interest thereon at the rate of 10% per annum from the day of sale. The interest of such purchaser in the property so purchased shall thenceforth cease and determine and he shall reconvey the same to the proper party; and the court which ratified the sale shall

have full power and jurisdiction in the same proceeding to require the purchaser, his heirs or assigns to execute such deed or reconveyance, and upon his or their refusal after reasonable notice so to do may appoint a trustee to execute the same.

This is taken from Code, Art. 81, Sec. 65, Offutt's Baltimore County Code, Sec. 149, and Baltimore City Charter (Ed. of 1927), Sec. 45, except that the time for redemption in Baltimore County is now two years—so long a period as almost to insure that a fair price will not be obtained for the property.

79. The collectors of the several counties of this State shall be entitled to the following fees, in addition to advertising costs and Court costs, for levying upon any property to enforce payment of taxes: levy and preparing schedule, \$2.00; setting up notices, \$1.00; reporting the same to court, \$1.00, and 5% commission on the proceeds of the sale, if the sale be made. The City Collector of Baltimore City shall be entitled to the charges allowed him by Section 48-A of Article 4, Public Local Laws of Maryland.

The scale here fixed is substantially that now allowed by law. See, for example, Code, Art. 81, Sec. 62; Offutt's Baltimore County Code, Sec. 150, and Baltimore City Charter (Ed. of 1927), Sec. 48A.

80. On the final ratification of any sale of real estate made by a tax collector or other person authorized under the provisions of this article to make the same, and after the period allowed for redemption shall have expired, the clerk of the court ratifying and confirming said sale shall forthwith proceed to record and properly index the proceedings relating to said sale in a well-bound book to be kept for the purpose, for which recording and indexing he shall be entitled to charge the same fees as in the case of the recording and indexing of other sales of real estate now required by law to be recorded, which fees shall be taxed as part of the costs of the proceedings, to be paid out of the proceeds of said sale of real estate, if there shall be so much remaining after the satisfaction of the taxes, charges on said real estate and

the costs of sale as provided by this article to be paid; otherwise to be charged against and paid by the purchaser.

This section is a substantial re-enactment of the existing law. See Code, Art. 81, Sec. 73.

81. In all cases where a Collector shall have commenced proceedings for the enforcement and collection of taxes under the provisions of this article, and his term of office shall expire by death, resignation, removal or otherwise before such proceedings are completed, any successor in office of such Collector, is hereby authorized, and directed to continue and complete in every way all such proceedings commenced by such predecessor in the same manner and with like effect as such predecessor would have been authorized and empowered to do had his term of office not ceased or expired as aforesaid, and such successor shall have the authority to report sales made by a predecessor and execute and deliver any and all deeds to properties sold and reported by a predecessor, and generally to do any and all acts and things necessary or proper to be done in order to continue and finally complete the enforcement and collection of taxes, and the sale and conveyance of property commenced and carried on by a predecessor in office.

This section is a substantial re-enactment of the existing law. See Code, Art. 81, Sec. 67; Baltimore City Charter (Ed. of 1927), Secs. 45A, 45B, and 51A. See also Sec. 68, *supra*.

82. In any case where a Collector shall refuse to make a deed for the conveyance of real estate sold and ratified, the Court ratifying such sale may appoint a special agent to execute such deed, upon application of the purchaser, and said agent shall act pursuant to said order.

This is substantially the existing law. See Code, Art. 81, Sec. 67.

83. The County Commissioners of the several counties and the Mayor and City Council of Baltimore City, the latter acting through its Comptroller, may bid at any sale of real estate for State and county taxes due thereon, and may pur-

chase any of such real estate offered at such sale; and in case any of such real estate shall be purchased by them at said sale, on the final ratification thereof the deed for the property so purchased shall be made to said County Commissioners or the Mayor and City Council of Baltimore by the Collector and the property be held for the use of the county or city, as the case may be.

Substantially the provisions of this and the next succeeding section are now in force in Baltimore City as to purchases by the City. Some such provisions seem essential for the protection of the interests of the counties and of the State, and we have accordingly inserted them.

84. At any time after any county, or the Mayor and City Council of Baltimore shall have acquired property by conveyance from the Collector, the County Commissioners or the Mayor and City Council of Baltimore, the latter acting through its Comptroller with the consent of the Board of Finance Commissioners of Baltimore City, shall after giving public notice by advertisement inserted once for three successive weeks in some newspaper published in the County, and in Baltimore City once for three successive weeks in two newspapers published in said City, offer the said real estate for sale at public auction to the highest bidder for cash, provided no public sale shall be for a less sum than the amount of the taxes, together with all costs, charges and interest due and chargeable thereon; and if for any real estate offered at public sale there shall be no bid which seems adequate to the County Commissioners or the Comptroller of Baltimore City, the same shall be withdrawn from sale and thereafter, at any time without any further notice, the County Commissioners, or the Mayor and City Council of Baltimore acting through its Comptroller with the consent of the Board of Finance Commissioners, may in their discretion sell the same at public or private sale for the highest amount they can obtain therefor. In the event of a sale, either public or private, a deed of conveyance shall be executed by the County

Commissioners, or in Baltimore City by the Board of Finance Commissioners, to the purchaser upon receiving the full amount of the purchase price; thereupon the County Commissioners or the Comptroller of the City of Baltimore shall pay over to the Collector the amount of taxes, together with all interest and charges due and chargeable on said property, and any balance that may be left after paying the costs and expenses incurred in the purchase and sale of said property, shall pass into the general treasury of the County or City for the general uses thereof.

See notes to Section 83.

85. Any sale of lands by a collector, where the owners are described as the heirs of a named person, shall pass the title as fully as if such heirs were each named in the proceedings by his proper name.

This is a re-enactment of Code, Art. 81, Sec. 64.

86. If the purchaser of such real estate shall die without having procured a deed from the collector, the collector may convey the said real estate to the devisees or heirs of the purchaser, or in case of a sale subject to a ground rent to his executor.

This is a substantial re-enactment of Code, Art. 81, Sec. 66, with an amendment to make the provision expressly applicable to devisees as well as heirs or in the case of a sale of leasehold to the executor.

Resistance to Collectors.

87. If any person shall resist, strike or menace with violence any collector in the discharge of his duties, or shall resist, attack or menace with violence any person present, and bidding or proposing to bid at any tax sale of property by a collector as aforesaid, the said collector may summon for his defense the posse comitatus, and each person so summoned shall be allowed fifty cents per day, to be levied on the county or city as other charges; and if any person sum-

moned shall refuse to serve, he shall be liable to a fine of five dollars, to be recovered before a justice of the peace, one-half to the use of the party prosecuting and the other half to the county or city.

This section re-enacts Code, Art. 81, Sec. 70.

88. If any collector shall have good reason to believe that he will be resisted by violence in the discharge of his duty in making a sale, he may, prior to the day of sale, summon the posse comitatus for his protection and the protection of peaceable persons attending such sale and the said posse comitatus when so summoned and attending shall be paid as hereinbefore directed, and shall be liable to be proceeded against as hereinbefore provided for failure or refusing to attend.

This section re-enacts Code, Art. 81, Sec. 71.

89. If any person shall strike or assault a collector in the discharge of his duty, or shall strike or assault any person serving as one of the posse comitatus, or shall strike or assault any person to deter or prevent his bidding at a collector's sale, or for having bid at such sale, he shall, on indictment and conviction thereof, be subject to a fine or not less than one hundred nor more than five hundred dollars, and to imprisonment for not less than two nor more than twelve months.

This section re-enacts Code, Art. 81, Sec. 72.

SPECIAL TAXES.

Franchise Tax on Deposits of Savings Banks.

90. Every savings bank, institution or corporation, organized for receiving deposits of money and paying interest thereon, other than banks having a capital stock, shall pay, annually, a franchise tax, to the amount of one-fourth of one per centum on the total amount of deposits held by such sav-

ings bank, institution or corporation; and it shall be the duty of the president, treasurer or other proper officer of every such savings bank, institution or corporation, on or before the first day of January, in each year, to report, under oath, to the State Tax Commission the total amount of deposits held by such savings bank, institution or corporation, on the preceeding first day of October; the State Tax Commission shall immediately thereafter, calculate the amount of franchise tax to be paid by the said savings bank, institution or corporation, at the rate hereinbefore mentioned, and shall apportion one-fourth of the same to be paid to the Treasurer of Maryland, for the State tax, and the other three-fourths of the same to the county in which such savings bank, institution or corporation is situate, or to the City of Baltimore, if such savings bank, institution or corporation be situate in said city, and shall certify the said amount due to the State to the Comptroller of the Treasury, to be collected as other State taxes, and the amount due to the counties in which such savings banks, institutions or corporations are severally situate, to the County Commissioners for such counties respectively, and the amount due to the City of Baltimore to the Appeal Tax Court of such city, to be collected as other county and city taxes due from corporations are collected; and such franchise taxes, as so apportioned, shall be due and payable respectively, as ordinary state, county and/or city taxes are due and payable by law, and, if unpaid, shall be in arrear, and shall bear interest as other such taxes.

This section re-enacts without substantial change Code, Art. 81, Sec. 96.

Gross Receipts Tax.

91. (a) A State tax as a franchise tax is hereby levied annually for the year 1930 and subsequent years measured by the gross receipts for the year ending on the preceeding 30th day of September, of:

(1) All domestic or foreign railroad companies, whose roads are worked by steam, doing business in this State, at the following rates, to wit:

One and one-quarter per centum on the first \$1,000 per mile of gross earnings, or on the total earnings if they are less than \$1,000 per mile; and

Two per centum on all gross earnings above \$1,000 and up to \$2,000 per mile; and

Two and one-half per centum on all earnings in excess of \$2,000 per mile.

This and the succeeding five sections recodify Code, Art. 81, Sections 172-177, inclusive, and 181, with changes in arrangement and other clerical alterations, but without substantial change except as mentioned in this note and in the footnotes to the said succeeding sections.

In order to conform to the provisions for a uniform tax-year, and uniform dates for all tax-returns, the taxes, which, as now, will be levied for the calendar year, are to be measured by the receipts for the year ending on the preceding first of October, and the returns are to be made on or before the first of January of the year for which the taxes are levied.

(2) Every domestic or foreign telegraph or cable, express or transportation, parlor car, sleeping car, safe deposit and trust company doing business in this State, at the rate of two and a half ($2\frac{1}{2}$) per centum; provided that in the case of safe deposit and trust companies the rate for the year 1930 measured by the gross receipts of the year ending Oct. 1, 1929, shall be two per cent.; for the year 1931, one and one-half per cent.; for the year 1932, one per cent.; and for the year 1933 and subsequent years this section shall not apply to safe deposit and trust companies.

This paragraph contains the provision for the reduction by an annual sliding scale of the tax on trust companies as mentioned in the body of the Commission's Report.

(3) All domestic and foreign telephone and oil pipe line companies and title insurance companies doing business in this State at the rate of two (2%) per centum.

(4) All domestic and foreign electric companies doing business in this State, at the rate of one (1%) per centum.

(5) All domestic and foreign gas companies doing business in this State, at the rate of one and one-half ($1\frac{1}{2}\%$) per centum.

(b) If any such railroad company has part of its road in this State and part thereof in another State or States, such company shall return a statement of its gross receipts over its whole line of road, together with a statement of the whole length of its line and the length of its line in this State, and such company shall pay to the State, at the said rates hereinbefore prescribed upon such proportion of its gross earnings as the length of its line in this State bears to the whole length of its line; and similar statements shall be made by each oil pipe line company, and each sleeping car, parlor car, express or transportation company, telephone or telegraph or cable company, so that the proportion of the said gross earnings of the said companies, respectively, accruing, coming from their business within this State, may be accurately ascertained, or said statement may be made in any other mode satisfactory to and required by the State Tax Commission. The said gross receipts taxes shall be due and payable at the treasury on or before the first day of July in each year.

(c) Every partnership or individual engaged in any of the above enumerated branches of business in this State shall be subject to the tax imposed by this section and comply with all provisions relating thereto as if such firm or individual were a corporation.

(d) Every taxpayer engaged in two or more of the businesses mentioned in subsection (a) of this section, shall pay with respect to the gross receipts in this State from each business the rate of tax provided in said subsection (a).

92. Every taxpayer subject to the tax imposed by the last preceding section shall on or before the first day of January in each year make a report under oath of its president, treasurer or other proper officer, to the State Tax

Commission showing its total receipts accruing from business done in this State for the year ending on the preceding thirtieth day of September, and the State Tax Commission shall file such report in their office, and on or before the first day of March next in each year calculate the State tax due from such taxpayer on its gross receipts aforesaid for such year, and transmit the amount of such State tax to the Comptroller of the Treasury, for collection and payment to the State Treasurer.

93. If any such taxpayer so doing business in this State shall neglect or refuse to make such report or return of gross receipts to the State Tax Commission within the time specified as aforesaid in any year, it shall be the duty of said Tax Commission to ascertain in any manner they may judge to be most available and certain, and to fix, the amount of such gross receipts of such taxpayer for such year, and to calculate and assess the State tax on the amount of such gross receipts as so ascertained and fixed, and to transmit the amount of such tax to the Comptroller in the same manner as if such taxpayer had made his report or return according to the provisions of the preceding section, and it shall be the duty of such taxpayer to pay to the State Treasurer the amount of such State tax as provided in Section 95. The State Tax Commission may also enforce by mandamus in any Court of competent jurisdiction the duty of filing such report.

94. The term "gross receipts" as used in the three preceding sections shall not, as applied to trust companies or title insurance companies, include any income derived from the investment of the capital or surplus of the corporation, and, in case of the use of moneys received or deposited by or with trust companies or title insurance companies, shall include only the difference between the receipts, earnings or revenues derived from the use of such deposited moneys, and the interest paid on such deposits.

95. It shall be the duty of the Comptroller of the Treasury to receive such accounts of state taxes so transmitted to him by the State Tax Commission and forthwith to proceed to notify each such taxpayer of the amount of such State tax by transmitting by mail to the president, treasurer or other proper officer of such taxpayer, an account of such State taxes. The tax shall be payable without interest at any time within thirty days after the date of mailing of such account, and thereafter and after the first day of July of such year, shall bear interest at the rate of one-half of one per cent. for each month or fraction of a month.

This section is taken from Code, Art. 81, Sec. 176, with amendments conforming to the new procedure according to which an appeal lies to Court instead of to the Comptroller and the Treasurer and which provides amply for notice to the taxpayer, and also prescribing the rate of interest and the date from which it shall be computed—matters now covered by Code, Art. 81, Sec. 178.

96. The State Tax Commission is hereby authorized and empowered to examine under oath any officer or agent of any such taxpayer touching the business in this State of such taxpayer, and the receipts and revenues accruing therefrom. The said State Tax Commission may also examine under oath any other person whom it may be advised or may believe has knowledge and information in the premises.

97. All gross receipts taxes measured by the receipts for the year ending December 31st, 1928, shall be levied, assessed, collected and paid as if this act had never been passed; and the existing law shall continue in force for that purpose or for the collection of any fines or punishment of any crimes in connection therewith.

Tax On Official Commissions.

98. When their commissions are delivered to them, the following officers shall respectively pay to the clerk from whom they receive the same, the sums following, for the use of the State, to wit:

The judges of each of the Circuit Courts for the several counties, the Supreme Bench of Baltimore City and the Court of Appeals, Fifty Dollars (\$50.00) each.

The Sheriff of Baltimore City, Three Hundred Dollars (\$300.00).

The Sheriff of Baltimore County, Frederick County and Washington County, each One Hundred Dollars (\$100.00).

The Sheriff of Allegany County, Seventy-five Dollars (\$75.00).

The Sheriffs of Carroll County, Harford County, Dorchester County, Anne Arundel County, Worcester County, Somerset County, Cecil County, and Prince George's County, each Forty Dollars (\$40.00).

The Sheriff of Howard County, Thirty Dollars (\$30.00).

The Sheriffs of Caroline County, Montgomery County, Talbot County, Charles County, Queen Anne's County, Calvert County, Garrett County, Kent County, Wicomico County, and St. Mary's County, each Twenty Dollars (\$20.00).

The judges of the Orphans' Court of Baltimore City, Fifty Dollars (\$50.00) each.

The judges of the Orphans' Court in the several counties, Ten Dollars (\$10.00) each.

Each justice of the Peace and Constable in the State, Two Dollars (\$2.00).

The tobacco inspectors, each Fifty Dollars (\$50.00).

The weigher of live stock, Fifty Dollars (\$50.00).

The weighers of grain, hay and straw, each Ten Dollars (\$10.00).

Each notary public Five Dollars (\$5.00).

The Clerk of the Court of Appeals, Two Hundred Dollars (\$200.00).

The Clerk of the Superior Court of Baltimore City, the Clerk of the Circuit Court and the Circuit Court No. 2 of Baltimore City, the Clerk of the Court of Common Pleas, the Clerk of the Baltimore City Court, and the Clerk of the Criminal Court of Baltimore, each Two Hundred Dollars (\$200.00).

The Clerks of the Circuit Court of the several counties each One Hundred Dollars (\$100.00).

The Register of Wills of the City of Baltimore, Two Hundred Dollars (\$200.00).

The Register of Wills of Baltimore County, One Hundred and Fifty Dollars (\$150.00).

The Register of Wills of Frederick County, One Hundred Dollars (\$100.00).

The Register of Wills of Washington County, Seventy-five Dollars (\$75.00).

The Register of Wills of Allegany County, Carroll County, Harford County, Kent County, Dorchester County, Anne Arundel County, Worcester County, Somerset County, Cecil County, and Prince George's County, each Fifty Dollars (\$50.00).

The Register of Wills of Howard County, Caroline County, Montgomery County, Talbot County, Charles County, Queen Anne's County, Calvert County, Garrett County, Wicomico County and St. Mary's County, each Thirty Dollars (\$30.00).

This section re-enacts with minor clerical amendments Code, Art. 81, Sec. 150, and consolidates therewith Code, Art. 81, Sec. 152.

99. No person shall administer the oath of office to any officer mentioned in the last preceding section until he shall have paid the tax on his commission prescribed in said section; and the said clerks shall quarterly, on the first Monday of March, June, September and December, pay to the treasurer all sums of money they shall have received for taxes on commissions.

This section re-enacts Code, Art. 81, Sec. 151, with minor clerical amendments.

100. The Secretary of State shall furnish to the Comptroller, annually, a list of all officers who have been reported to him by the several clerks as having qualified by taking the oath of office, and the clerks shall make such reports to the Secretary of State.

This section re-enacts Code, Art. 81, Sec. 153.

Tax On Commissions of Executors and Administrators.

101. All commissions allowed to executors by the Orphans' Courts of this State shall, except as provided in Sec-

tion 130 of this Article, be subject to a tax, for the benefit of the State, of an amount equal to one per cent. on the first twenty thousand (\$20,000) dollars of the estate, and one-fifth of one per cent. on the balance of the estate, and said tax shall be due and payable whether the executor waives his commissions or not, it being hereby intended that no commissions less than this tax shall be allowed by the Orphans' Courts of this State, and that no waiver of commissions or devise or legacy as compensation or in lieu of commissions shall defeat the payment of this tax.

This section re-enacts Code, Art. 81, Sec. 119, with clerical amendments to conform to the statutory definition that executor shall include administrator, and with a further amendment to conform to the reciprocity provision enacted by the Act of 1927, Ch. 350.

102. The several orphans' courts shall fix the commissions of executors within twelve months from the grant of administration, and in all subsequent accounts wherein executors shall charge themselves with further assets, and they shall fix such commissions in all cases, in which letters of administration have been or may hereafter be granted, whether commissions are claimed by the executors or not; and all commissions so fixed shall be subject to the tax imposed by the foregoing section; provided that where commissions are allowed both to an administrator or executor and an administrator *de bonis non* or *pendente lite* on the same property or funds, the said tax shall be paid but once.

This section re-enacts Code, Art. 81, Sec. 120, with the addition of a proviso to prevent what is in effect double taxation, under the rule laid down in *Williams vs. State*, 144 Md. 18.

103. Every executor shall pay said tax to the Register of Wills of the proper county or city on the passage of his accounts; and on failure to do so within thirty days thereafter the register shall notify the State's Attorney of the city or county, who shall thereupon put the bond of such executor in suit for the use of the State; and the said bond

shall be liable therefor as for any other default of the principal obligor.

This section re-enacts with clerical amendments Code, Art. 81, Sec. 121.

104. Upon payment to the register he shall give to the executor a receipt therefor, which shall be evidence of the payment of the tax so receipted for.

This section re-enacts Code, Art. 81, Sec. 122, with a clerical amendment, and the elimination of a provision for duplicate receipts with a direction that the executor shall forward one of them to the State Treasurer—a direction which is in practice rarely if ever followed.

Collateral Inheritance Tax.

105. All estates, real, personal and mixed, money, public and private securities for money of every kind passing from any person who may die seised and possessed thereof, being in this State, either by will or under the intestate laws of this State, or any part of such estate or estates, money or securities, or interest therein, transferred by deed, grant, bargain, gift or sale, made or intended to take effect in possession after the death of the grantor, bargainor, deviser or donor, to any person or persons, or bodies corporate, in trust or otherwise, other than to or for the use of the father, mother, husband, wife, children and lineal descendants of the grantor, bargainor or testator, donor or intestate shall be subject to a tax of five per centum in every hundred dollars of the clear value of such estate, money or securities; and all executors, administrators, trustees and other persons making distribution, shall only be discharged from liability for the amount of such tax, the payment of which they be charged with, by paying the same for the use of this State, as hereinafter directed; provided, that no estate which may be valued at a less sum than five hundred dollars shall be subject to the tax imposed by this section; provided further, that nothing in this section shall apply to any such estate or estates, money or securities, or interest therein, transferred by deed,

will, grant, bargain, gift or sale, made or intended to take effect in possession after the death of the grantor, bargainor, devisor or donor, or by escheat, passing to this State, or to any county or city of this State; and provided further that no tax shall be imposed which is forbidden by Section 130 of this article.

This and the succeeding twenty-five sections re-enact Code, Art. 81, Sections 124-148A, inclusive, with only minor clerical changes except as noted in this note and in the footnotes to the said succeeding sections.

This section re-enacts Code, Art. 81, Sec. 124, with amendments (1) to conform to the reciprocity Act of 1927, Ch. 350; (2) to make clear that property passing by escheat is not subject to the tax, and (3) to correct an error due to the accidental dropping out of a line in the Code of 1860, which error, with a partial, blundering attempt at correction has been repeated ever since.

106. Every executor to whom administration may be granted, before he pays any legacy or distributive share of any estate liable to the tax imposed by the preceding section, shall pay to the register of wills of the proper county or city, five per centum of every hundred dollars he may hold for distribution among the distributees or legatees, except as hereinafter provided, and at that rate for any less sum, for the use of the State; provided that such tax shall not be paid or collected upon any increase in value of the estate or any income thereon accrued subsequent to the date of the death of the decedent.

This section re-enacts without substantial change Code, Art. 81, Sec. 125, as amended by the Act of 1927, ch. 125.

107. When any species of property other than money or real estate shall be subject to said tax, the tax shall be paid on the appraised value thereof as filed in the office of the register of wills of the proper county or city, which appraisal shall be subject to modification by the Orphans' Court appointing such appraisers, for good cause shown; and every executor shall have power, under the order of the Orphans'

Court, to sell, if necessary, so much of said property as will enable him to pay said tax.

This section re-enacts Code, Art. 81, Sec. 126, with an amendment providing that the Orphans' Court shall have power to correct an error in the appraisement in the inventory.

108. Every executor shall, within thirteen months from the date of his administration, pay said tax on distributive shares and legacies in his hands, and on failure to do so he shall forfeit his commissions.

109. In all cases where real estate of any kind is subject to the said tax, the Orphans' Court of the county in which administration is granted shall appoint the same persons who may have been appointed to value the personal estate to appraise and value all the real estate of the deceased within the State; and this appraisement shall likewise be subject to confirmation or modification by said Orphans' Court, for good cause shown. The form of the warrant to such appraisers shall be the same as to appraisers of personal property, except that the words "real estate" shall be inserted therein instead of the words "goods, chattels and personal estate," and the words "price of property" instead of the word "article," and the appraisers shall take the oath prescribed for appraisers of personal estate, except that the words "real estate" shall be substituted for the words "goods, chattels, and personal estate," and their duties and proceedings shall, in every respect, be the same as those of the appraisers of personal estate.

This section re-enacts Code, Art. 81, Sec. 128, with an amendment providing that the Orphans' Court shall have power to correct an error in the appraisement in the inventory, and also incorporates the provisions of Sec. 129.

110. If the estate or property lies in more than one county, and it is not convenient for the appraisers to visit the other county, the court may appoint two appraisers in said county.

111. The inventory of the real estate shall be entirely separate and distinct from that of the personal estate.

112. On the death or refusal of any appraiser to act, the Court may appoint another in his place.

113. The appraisers shall return the inventory, when complete, to the executor, whose duty it shall be to return the same to the office of the register of wills, to which the inventory of the personal estate is returnable, and within the same time and under like penalty, and he shall make oath that said inventory or inventories is or are a true and perfect inventory or inventories of all the real estate of the deceased, within the State, that has come to his knowledge, and that, should he thereafter discover any other real estate belonging to the deceased, in this State, he will return an additional inventory thereof.

114. The appraisement thus made shall be deemed and taken to be the true value of the said real estate upon which the said tax shall be paid.

115. The amount of said tax shall be a lien on said real estate for the period of four years from the date of the death of the decedent, who shall have died seised and possessed thereof.

116. The executor shall collect the same from the parties liable to pay said tax or their legal representatives within thirteen months from the date of his administration, and pay the same to the register of wills of the county or city in which administration is granted; and if the said parties shall neglect or fail to pay the same within that time, the Orphans' Court of the said county or city shall order the executor to sell for cash so much of said real estate as may be necessary to pay said tax and all the expenses of said sale, including the com-

missions of the executor thereon; and after the report of said sale, the ratification thereof and the payment of the purchase money, the executor may execute a valid deed for the estate sold, and not before; provided, however, that nothing in this section contained shall be construed to confer authority on the Orphans' Court to order the sale of any real estate for the satisfaction of collateral inheritance tax after the expiration of four years from the date of the death of the decedent, who shall have died seised and possessed of said real estate.

117. Whenever any estate or any interest therein, subject to the collateral inheritance tax imposed by this Article, is administered in any of the Circuit Courts of this State, the Court administering such estate shall appoint at least two appraisers to value such estate or interest therein, for the purpose of determining the amount of the tax due and payable under the provisions of this sub-title, which appraisalment shall be subject to confirmation or modification by the Circuit Court appointing such appraisers. The amount of tax so determined shall be paid to the Register of Wills of the County or City in which such estate is administered, and the trustee or other person administering such estate or interest therein or the surety on his bond, shall not be discharged from liability until the collateral inheritance tax has been paid.

118. Whenever any estate, real, personal or mixed, of a decedent shall be subject to the tax mentioned in this sub-title, and there be a life estate or interest for a term of years, or a contingent interest, given to one party and the remainder, or reversionary interest, to another party, the Orphans' Court of the county or city in which administration is granted shall determine at such time as it shall think proper what proportion the party entitled to said life estate, or interest for a term of years, or contingent interest,

shall pay of said tax, and the party entitled to said life estate or interest for a term of years, or other contingent interest, shall within thirty days after the date of such determination pay to the register of wills his proportion of said tax; and thereafter the said court shall from time to time after the determination of the preceding estate and as the remainder of said estate shall vest in the party or parties entitled in remainder or reversion determine what proportion of the residue of said tax shall be paid by the party or parties in whom the estate shall so vest; and each of the parties successively entitled to remainder or reversion shall pay his proportion of said tax to the register of wills within thirty days after the date of such determination as to him; and the proportion of the tax so determined to be paid by the party entitled to the life interest or estate shall be and remain a lien upon such interest or estate for the period of four years after the date of the death of the decedent, who shall have died seised and possessed of the property; and the proportion of the tax so determined to be paid by the persons respectively entitled to the remainder, or reversionary interest, shall be a lien on such interest for the period of four years from the date on which such interest shall vest in possession. From any order or determination of the Orphans' Court under this section an appeal shall lie to the Court of Appeals by the State or any person aggrieved to the same extent and in the same time and manner as from other orders of the Orphans' Court.

This section re-enacts Code, Art. 81, Sec. 137, with an amendment eliminating a provision that the apportionment by the Orphans' Court shall be final, and allowing of an appeal to the Court of Appeals.

119. Whenever an interest in any estate, real, personal or mixed, less than an absolute interest, shall be devised or bequeathed to or for the use and benefit of any person or object, subject to the tax, then only such interest so devised or bequeathed shall be liable for said tax; and it shall be the duty of the Orphans' Court of the county or city in which

administration is granted, or any other court assuming jurisdiction over such administration, to determine as soon after administration is granted as possible, on application of such person or object, the value of such interest liable for said tax by deducting from the whole value of the estate so much thereof as shall be the value of the interest therein of any person who is exempt from said tax, and the residue thereof shall be the value of said interest upon which said tax is payable; and said tax so ascertained shall be paid by such person or object within ninety days from such ascertainment, with interest thereon at six per cent. per annum, after the expiration of twelve (12) months from the date of the death of the decedent, under whose will or by whose intestacy said interest is acquired, if said tax has not sooner been paid, or within ninety days from the time that it shall be ascertained that such person or object shall be entitled to any such interest in any estate; but such tax shall bear interest at the rate of 6 per cent. per annum from the expiration of twelve (12) months from said death; but if such person or object shall fail to pay said tax, as above provided, then such person or object shall at the time when he, she or it comes into possession of such estate, pay a tax on the whole value thereof; and any order of the Orphans' Court passed under this section shall be subject to the same right of appeal as provided in the last preceding section.

This section re-enacts Code, Art. 81, Sec. 138, with an amendment providing that the determination of the Orphans' Court shall be subject to appeal to the Court of Appeals.

120. If any of the parties mentioned in Sections 118 and 119 shall refuse or neglect to pay the several proportions so decreed by the Orphans' Court within thirty days from the time of such decree, the Court shall order and direct the executor or administrator to sell all the right, title and interest of such party in and to said estate or property, or so much thereof as the court may deem necessary, to pay his proportion of said tax and all expenses of sale; provided, however,

that nothing in this section contained shall be construed to confer authority on the Orphans' Court to order the sale for the satisfaction of collateral inheritance tax of any life interest after the expiration of four years from the date of the death of the decedent, who shall have died seised and possessed of the property, or of any remainder of reversionary interest after the expiration of four years from the date at which such interest shall vest in possession.

121. The bond of an executor shall be liable for all money he may receive under this sub-title for taxes, or for the proceeds of the sales of real estate received by him thereunder.

122. If any executor shall fail to perform any of the duties imposed upon him by this sub-title, the Orphans' Court of the county in which the administration was granted may revoke his administration, and his bond shall be liable, and the same proceedings shall be had against him as if his administration had been revoked for any other cause.

123. The powers and duties of an administrator *de bonis non*, or with the will annexed, shall be the same under this sub-title as those of an executor or administrator, and he shall be subject to the same liabilities..

124. In all cases where any estate, real, personal or mixed, shall be subject to the collateral inheritance tax imposed by this article and no administration is taken out on the estate of the person who died seised and possessed thereof, within ninety days after the death of said person, the Orphans' Court of the county in which such administration should be granted shall issue a summons for the parties entitled to administration to show cause wherefore they do not administer; provided, however, that when any real estate shall be subject to said tax and no administration has been taken on the estate of the person who died seised thereof, the Orphans' Court of the county where said real estate shall

be situate may, on the application of any one interested in said real estate, appoint appraisers to value the same as provided by the preceding sections of this article, and the amount of said tax may be paid to the register of wills of the county where the said application shall be made.

125. If the parties entitled by law to administration do not administer within a reasonable time to be fixed by the said court or if they be incapable, or being capable if they decline or refuse to appear on proper summons or notice, administration shall be granted to such person as the court may deem proper.

126. In all cases where estates of any interest therein pass, and there is no formal administration subject to the jurisdiction of any Court, it shall be the duty of every trustee or other person making distribution of any such estate, real, personal or mixed, subject to the collateral inheritance tax imposed by this Article, to file in the Orphans' Court of the county or city where the person who died seised or possessed of such estate, had his or her residence at the time of his or her death, or in case of real estate, in the Orphans' Court of the county or city in which the real estate is situated, within ninety (90) days after the death of such person, a full and complete inventory of the property which is subject to the collateral inheritance tax imposed by this article, and which said trustee or other person making distribution thereof is about to distribute; and in all such cases where any such estate or any interest therein passes by reason of any deed, will, grant, bargain, gift or sale, made or intended to take effect in possession after the death of the grantor, bargainor, deviser, or donor, and there is no trustee or other person to make distribution thereof, it shall be the duty of the person receiving such estate or any interest therein, to file the inventory within the time and in the manner hereinabove provided. Upon the filing of the inventory as required by this

section, the Orphans' Court shall appoint at least two appraisers to value the property listed in any such inventory for the purpose of determining the amount of tax due and payable hereunder; and the tax so ascertained to be due shall become payable at once to the Register of Wills, for the non-payment of which he is authorized to institute suit for and on behalf of the State of Maryland in any court of competent jurisdiction.

This section re-enacts Sec. 143A as added by the Act of 1927, Ch. 242.

127. Whenever any estate, real, personal or mixed, shall be subject to the collateral inheritance tax imposed by this article, and there is no formal administration of such estate subject to the jurisdiction of any court, and no inventory is filed as required by the last preceding section, it shall be and become the duty of the Register of Wills of the county or city in which the inventory should have been filed, under the provisions of the preceding section, to apply for the appointment of at least two appraisers to value any such estate that may come to his attention, for the purpose of determining the amount of tax due and payable hereunder, and the tax so ascertained to be due shall become payable at once to the Register of Wills, and in addition thereto the person or persons liable for the payment of said tax shall be and become liable by way of a penalty, for the payment of an additional sum equal to 25% of the amount of tax so determined to be due, and for the non-payment of said tax or the penalty, the Register of Wills is authorized to cause suit to be instituted in the name of the State of Maryland through the Attorney General in any court of competent jurisdiction.

This section re-enacts Code, Art. 81, Sec. 143B, as added by the Act of 1927, ch. 242.

128. In all cases where application is made to the Orphans' Court or Register of Wills of any county or the City

of Baltimore for letters testamentary or of administration, the said Court or Register shall inquire of the person making application whether he knows or believes that there is any real estate of the decedent liable to the collateral inheritance tax, and the answer of such applicant shall be given on oath if the Court or register requires it.

129. The Register of Wills shall give to the person paying the collateral inheritance tax imposed by this article a receipt for said tax, which shall discharge such person from liability for such tax so receipted for.

This section re-enacts Code Art. 81, Sec. 146, with an amendment eliminating a provision for duplicate receipts, one of which the executor is directed to forward to the State Treasurer—a direction rarely, if ever, complied with.

130. Except as to tangible personal property having an actual situs in the State of Maryland, no tax on commissions of executors or administrators of non-resident decedents, and no inheritance, estate, or death or transfer tax of any character, in respect of personal property (including also therein mortgages upon real or personal property located within the State of Maryland) of non-resident decedents, shall be payable (a) if the decedent at the time of his death was a resident of a state or territory of the United States, or of any foreign country, which at the time of the distribution, transfer or other disposition of such personal property of such decedent in Maryland did not impose a transfer tax or death tax of any character in respect of personal property of residents of this State (except tangible personal property having an actual situs in such state or territory or foreign country), or (b) if the laws of the State, territory or country of residence of the decedent at the time of such distribution, transfer or other disposition contained a reciprocal exemption provision under which residents of Maryland are exempted from transfer taxes or death taxes of every character in respect of personal property (excepting tangible personal

property having an actual situs in such state or territory or foreign country) provided the State of Maryland allows a similar exemption to residents of the state, territory or country of residence of such decedent. For the purpose of this section the District of Columbia and possession of the United States shall be considered territories of the United States. Nothing in this section contained shall be construed to subject to taxation anything otherwise exempt therefrom.

This section re-enacts Code Art. 81, Sec. 148, as added by the Act of 1927, Ch. 350.

131. It shall be the duty of the several clerks and the several registers of wills in this State to account with and pay to the treasurer on the first Monday of March, June, September and December in each and every year all sums of money received by them respectively, for which the clerks shall be allowed a commission of two and one-half per centum, and the Register of Wills shall be allowed a commission of twelve and one-half per centum upon the amount of said collateral inheritance tax, and the said clerks shall be allowed a commission of five per centum, and the register of wills shall be allowed a commission of twenty-five per cent. upon the amount received of the tax on official commissions and executors' commissions, respectively, so paid over.

132. If any of the said clerks or registers shall fail to account and pay over as required in the preceding section, the Comptroller shall, in thirty days thereafter, give notice thereof to the Attorney General, whose duty it shall be to put the bond of such clerk or register in suit for the use of the State, in which suit a recovery shall be had for the amount appearing to be due, with interest at the rate of ten per cent. per annum, from the date or dates when the same was payable as aforesaid, which recovery shall be evidence of misbehavior, and upon conviction thereof the said Clerk or Register shall be removed from office, which shall thereupon be filled as prescribed by the constitution;

and such failure on the part of any clerk or register shall amount to a forfeiture of the commission to which he would otherwise be entitled.

This section re-enacts Code, Art. 81, Sec. 148, with an amendment recognizing the fact that under the present law the Attorney General instead of the State's Attorney is the proper officer to conduct such suits.

Bonus Tax.

133. Every domestic corporation having capital stock, except (1) railroad corporations authorized to construct, maintain or operate railroads in this State; (2) building or homestead associations, and (3) co-operative associations organized under Article 23 of the Code of Public General Laws (1924), Section 420, shall, at or before the time of incorporation, pay for the use of the State a bonus tax for its authorized capital stock at the following rates, to wit:

Twenty cents for every thousand dollars of the amount of its authorized capital stock, where such authorized capital stock amounts to one million dollars or less, but in no case less than twenty dollars.

An additional bonus tax of one hundred and fifty dollars for every million dollars or fractional part thereof on the amount of authorized capital stock in excess of one million dollars and not in excess of five million dollars.

An additional bonus tax of twenty dollars for every million dollars or fractional part thereof on the amount of authorized capital stock in excess of five million dollars.

For purposes of this section stock without par value shall be treated as if it were of the par value of one hundred dollars per share.

The bonus tax now appears in two places in the Code—in Article 81, Sections 104-110A, and in Article 23, Sec. 106. As the provisions are inconsistent, such a situation is confusing, to say the least. It seems reasonably clear that although the two provisions are printed in the Code as if both were in force, yet those in Article 81,

being enacted by much earlier statutes than those in Article 23, are, as stated in the edition of our tax laws published by the State Tax Commission in 1919, "mostly inoperative." We have, therefore, codified the provisions of Article 23 in preference to those of Article 81.

This section is in the main a re-codification without substantial change of Code Art. 23, Sec. 106, except that it is limited to new incorporations, the tax on increase of capital by consolidation or otherwise being now provided for by the next section. The last paragraph of this section is a codification of a portion of Code Art. 23, Sec. 39, which relates to bonus taxation and is therefore removed from Article 23 and inserted in Article 81.

134. At the time of amending its charter to effect an increase of its authorized capital stock a bonus tax shall be paid for the use of the State on such increase in an amount equal to the difference between the tax computed at the foregoing rates on the total authorized amount of capital stock of the corporation including the proposed increase, and the tax so computed on the authorized amount of capital stock, excluding the proposed increase; and in the case of the consolidation of existing corporations to form a new corporation, such new corporation shall be required to pay a bonus tax only for the amount of its authorized capital stock in excess of the aggregate amount of the authorized capital stock of the consolidating corporation, such tax to be in amount equal to the difference between the tax computed at the foregoing rates on the aggregate amount of the authorized capital stock of the consolidating corporations and the tax so computed on the amount of authorized capital stock of the new corporation; provided, however, that in no case shall the bonus tax paid on any consolidation or increase of capital stock be less than twenty dollars.

This section is a codification of so much of Code, Art. 23, Sec. 106, as relates to the bonus tax on increase of capital or on consolidation.

135. The amount of such bonus tax shall be deposited with the State Tax Commission when the certificate of incorporation, or the articles of amendment, or agreement of

consolidation, increasing the authorized capital stock, are filed, which shall account quarterly therefor to the Comptroller and pay the same forthwith to the State Treasurer for the use of the State.

This section is a codification of so much of Code, Art. 23, Sec. 106, as relates to the method of payment of the bonus tax and the disposition thereof.

Tax on Franchise to be a Corporation.

136. Every ordinary business corporation, excluding charitable, benevolent and fraternal institutions, shall pay annually to the State Treasurer for the use of the State on or before the first of July in each year succeeding the date of its incorporation an annual tax for its franchise to be a corporation (in addition to any other tax imposed by law) at the following rate, that is to say:

On the amount of its capital stock issued, outstanding and/or subscribed for, on the first day of the preceding October, for the first five thousand dollars or less, the sum of ten dollars.

For every one thousand dollars or fractional part thereof in excess of said five thousand dollars up to and not greater than fifty thousand dollars, the additional sum of one dollar.

For every additional two thousand dollars or fractional part thereof in excess of said fifty thousand dollars up to and not greater than one hundred thousand dollars, the additional sum of one dollar.

If the amount of such capital stock is more than one hundred thousand dollars, but not greater than two hundred and fifty thousand dollars, there shall be an additional annual franchise tax of twenty dollars.

If the amount of such capital stock is more than two hundred and fifty thousand dollars and not greater than five hundred thousand dollars, there shall be an additional annual franchise tax of twenty dollars.

If the amount of such capital stock is more than five hundred thousand dollars and not greater than one million dollars, there shall be an additional annual franchise tax of thirty dollars.

If the amount of said capital stock is more than one million dollars and not greater than ten million dollars, there shall be an additional annual franchise tax at the rate of fifty dollars for each additional million dollars or fractional part thereof, and on every five million dollars in excess of ten million dollars, the additional annual franchise tax on such excess shall be at the rate of one hundred dollars for each five million dollars or fractional part thereof.

Every such corporation which has no part of its capital stock issued, subscribed for or outstanding on the first day of the preceeding October, shall pay for such franchise an annual tax of ten dollars (\$10.00).

For purposes of this section stock without par value shall be treated as if it were of the par value of one hundred dollars per share.

This section, with the exception of the last paragraph, is a codification without substantial change of the first part of Code Art. 23, Sec. 109, that section being divided for convenience of reference. The last paragraph of the section is a re-codification of a portion of Code Art. 23, Sec. 39, which relates to franchise taxation and is therefore transferred from Article 23 and inserted in Article 81.

137. For the purpose of the preceeding section the entire authorized capital stock of such corporation, as shown by the charter, certificate of incorporation, or any amendment thereof, shall be taken as issued, unless on or before the first day of January in each and every year the corporation shall file with the State Tax Commission an affidavit of any officer of the corporation, showing the actual number of its issued, outstanding and/or subscribed for shares, if any as of the first day of the preceeding October; provided, however, if a proper report, under oath, is filed, within fifteen days from the date (as shown by the records of the State Tax Commission) of the mailing of a notification of the amount of such tax due, the annual franchise tax which such corporation shall pay shall be computed upon the amount of its actually issued, outstanding and/or subscribed for capital

stock, plus an additional ten per centum (10%) of the amount of its issued, outstanding and/or subscribed for capital stock, said tax, however, not to exceed, in the aggregate, the amount of tax if calculated upon the entire authorized capital stock; and in the event that no part of the capital stock was issued, outstanding or subscribed for, such corporation shall pay an annual franchise tax of twelve dollars and fifty cents (\$12.50).

This section is a re-codification of a portion of Code Art. 23, Sec. 109, with the elimination of a harsh and unreasonable penalty.

138. The State Tax Commission shall annually on or before the first day of May ascertain and certify the amount of each such tax to the Comptroller who shall before the first day of June in each year transmit to such corporation a bill for the amount of the franchise tax, and such tax shall be payable to the Treasurer on or before the first day of July following and shall bear interest thereafter; if such tax shall not be paid before the first day of September following, a penalty of ten per cent. on the amount thereof shall be added, and the Comptroller shall place the bill therefor in the hands of the Attorney General for collection by suit in the name of the State.

This section is a re-codification of the last sentence of Code, Art. 23, Sec. 109, with an amendment striking out as unnecessary a provision for forfeiture of the charter for non-payment—a matter now covered by Section 144, *infra*.

139. One-half of the said franchise tax, together with the interest and penalty, if any, shall be held by the Treasurer for the use of the State, and the other half shall be paid by him forthwith to the county or City of Baltimore where the principal office of said corporation shall be situated.

This section is a re-codification of Code Art. 23, Sec. 110, eliminating the provision for a distribution of one-half the tax between the several counties and cities of the State according to the number of shares of stock held by residents of each, and the substitution of a provision that the tax shall be divided equally between the State and the county in which the corporation has its principal office. As the tax in many cases is small, the present method of apportionment gives rise, as we are informed by the State Tax

Commission, to great complexity of accounting, and frequently to almost infinitesimal subdivisions of the tax. In some cases, the amount apportioned to a county or town in which only a few stockholders reside is not more than a few cents, and in many cases the amount is so small that the local authorities do not go to the trouble or expense of collecting it.

Franchise Tax On Foreign Corporations.

140. Every foreign corporation, except insurance companies of all classes, and corporations subject to a franchise tax measured by gross receipts, which does business or exercises its franchises in this State, shall pay to the State Treasurer, for the use of the State, an annual franchise tax upon the amount of capital employed by it in this State on the preceding first day of January, as determined by the State Tax Commission, at the following rates, that is to say.

The sum of twenty-five dollars for every fifty thousand dollars, or fractional part thereof of capital employed by it in this State up to five hundred thousand dollars—but in no case less than twenty-five dollars.

If the amount of such capital is more than five hundred thousand dollars, and not more than five million dollars, then an additional amount equal to one-fortieth of one per cent. on the excess.

If more than five million dollars, then an additional amount at the rate of thirty dollars for every million dollars of such last-named excess.

This section re-codifies without substantial change the first half of Code Art. 23, Sec. 122.

141. The State Tax Commission after ascertaining the amount of capital employed in this State by each foreign corporation shall certify the same, together with the amount of franchise tax due thereon by the corporation, to the Comptroller of the Treasury, who shall at once proceed to collect said tax, which shall be collectible by him and payable to the Treasurer of Maryland in the same manner as is now or may hereafter be prescribed by law for the collection and payment of taxes to the Comptroller of the Treasury by other

corporations. If the franchise tax imposed on any foreign corporation shall not be paid by the first day of November in the year for which such tax is imposed, if on that date thirty days shall have elapsed since the rendition of a bill for such taxes by the Comptroller of the Treasury and, if not, then at the expiration of said thirty days' period, any and all defaulting foreign corporations shall forfeit the right to do business in this State until all taxes due are paid, as well as any interest or charge thereon and in addition be subject to the penalty prescribed by Section 121 of Article 23 of the Code of Public General Laws.

This section repeats verbatim the last two sentences of Code Art. 23, Sec. 122.

GENERAL PROVISIONS.

Preference of Taxes.

142. In the distribution of the estate of any insolvent or deceased person, or in any other distribution or disposition of assets, in any orphans' court or court of equity, or any other court in this State, or in any distribution or disposition by any sheriff, constable or other officer or employee of this State or any county or city thereof, under the laws thereof, all taxes due to this State and any county or city thereof, shall be preferred claims, and shall have preference over all other claims except the necessary funeral expenses of such deceased person; and the trustee, receiver, executor, sheriff, constable or other officer or employee shall pay such taxes as preferred claims.

This section re-codifies in different words and perhaps some extension in substance Code Art. 81, Section 74, 75 and 76.

Time for Assessment and Collection.

143. Notwithstanding any provision of this article directing taxes to be assessed or collected within any special time.

any taxes which ought to have been so assessed or collected may be assessed and collected at any time within the period of limitations prescribed by law.

This section is inserted out of abundant caution.

Forfeiture of Corporate Charters for Non-Payment of Taxes.

144. (a) If any domestic corporation shall refuse or neglect to pay to the State, or the proper officers thereof, any franchise tax due by it, or any tax on its capital stock or shares thereof due by it, or any gross receipts tax due by it, for a space of two years from the first day of January next after the expiration of the calendar year during which said taxes became due and payable, it shall be the duty of the Comptroller of the State to certify immediately thereafter to the Governor a list of all such corporations, and the Governor shall forthwith issue and publish his proclamation declaring under this section that the charters or certificates of incorporation of such corporations shall be repealed, annulled and forfeited, and that the powers conferred by law upon such corporations shall be inoperative, null and void; upon the expiration of thirty days from the date of the first publication of such proclamation, unless all such taxes, together with all interest and penalties due thereon, are paid before the expiration of said thirty days. The Governor shall cause said proclamation to be published in at least three daily newspapers of general circulation published in the State, once a week for four successive weeks. Any such corporation paying all taxes, interest and penalties as aforesaid, after the first publication of said proclamation, shall be omitted from subsequent publications thereof. Immediately upon the expiration of thirty days from the date of the first publication of said proclamation, the charters or certificates of incorporation of all such corporations which have not then paid all taxes, interest and penalties due as aforesaid, shall be *ipso facto* repealed, annulled and forfeited and the powers granted to such corporations shall be inoperative, null and void, without the necessity of proceedings of

any kind either at law or in equity. Provided, that any corporation whose charter or certificate of incorporation shall be forfeited under this section, may, within six months thereafter revive the same and reinvest itself with all the powers conferred upon it by law under said charter or certificate of incorporation by the payment of all such taxes, interest and penalties and an additional fee of twenty-five dollars.

(b) The Secretary of State is directed to send copies of each of the said proclamations of the Governor to the Comptroller, to the Treasurer and to the State Tax Commission, and also a list of all those corporations whose charters or certificates of incorporation shall have been revived by the payment as aforesaid of said taxes, interest, penalties and fee. The Comptroller and Treasurer shall note upon their respective records the facts of the repeal, annulment and forfeiture of the charters or certificates of incorporation of all corporations whose charter or certificate of incorporation have been repealed, annulled or forfeited as aforesaid, and the revival of those which have been revived; and the Comptroller shall notify the State Tax Commission of the same, to the end that the State Tax Commission may note the same upon its records. It shall be the duty of the Comptroller, at the time he certifies said corporations to the Governor as aforesaid, also to mail to each corporation so certified, at its address or office as the same appears upon his books, a notice that its charter will be repealed, annulled and forfeited, under the provisions of this section unless all taxes, interest and penalties so due by it are paid as aforesaid, it being the intention hereof that the mailing of such notice shall be sufficient, and that the failure for any reason of any such corporation to receive the notice so mailed to it, shall in no wise affect the repeal, annulment and forfeiture of its charter, in accordance with this section.

(c) Nothing in this section shall be held or construed to repeal, supersede or in any manner affect any remedy or provi-

sion of law for the collection of any and all taxes, and the interest and penalties due thereon.

This long section is a substantial re-enactment of Code Art. 81, Sec. 103, with the elimination of one clause which has become obsolete.

Suits for Collection of Taxes.

145. Any tax may be collected from the person liable under this article to pay the same by action of assumpsit instituted at any time after said tax shall become due and payable, and within the period of limitation prescribed by this article, and such suit may be maintained notwithstanding the existence of other remedies by way of sale of real estate, or otherwise.

This and the succeeding five sections constitute, as set forth in the text of the Report of the Commission, a consolidation and unification of various provisions for collection of sundry taxes by suit, now scattered through Article 81. We have endeavored to make the parties, procedure, etc., simple and certain.

146. Any such suit for the collection of State taxes may be instituted either (a) in the name of the State, or (b) in the name of the Treasurer, or other officer authorized by law to collect the same, and for the collection of county or city taxes either (a) in the name of the Board of County Commissioners, or corporate name of the city, as the case may be; or (b) in the name of the officer authorized by law to collect the same describing himself always as such; provided (1) that where both State and County or city taxes are payable by the same person to the same officer, a suit brought in the latter's name may combine counts or claims for such State taxes with counts or claims for such county and/or city taxes; and provided further (2) that if the officer in whose name any such suit may have been brought shall die or resign; or in any way cease to be such officer, during the pendency of such action his successor may, on motion, be substituted as plaintiff, and any judgment obtained by any such officer may be enforced.

and collected by his successor in like manner as if the judgment had been obtained in the name of such successor.

This section prescribes the parties plaintiff in such suits. It is partly, no doubt, declaratory. In so far as it permits the combination in one suit of claims for State and County or City taxes payable to the same officer, it follows in part the precedent set by the Act of 1912, Ch. 429.

147. Any such suit, whether the defendant be a resident or a non-resident of this State may be begun by writ of attachment against the lands, goods, chattels or credits of the defendant; and such attachment, except as in this article otherwise provided, shall be governed in all respects by the rules of law and procedure applicable to attachments for liquidated damages against non-residents; and no attachment bond shall be required of the plaintiff.

This section is new, and, as stated in the Report, is intended as a substitute for the obsolete and harsh procedure by distraint which we recommend be abolished.

148. Any such suit shall at the request of the plaintiff be tried forthwith as soon as the same is at issue, and shall have precedence over all other civil cases whatsoever.

149. It shall be the duty of the Attorney General to institute any such suit on behalf of the State whenever thereunto requested by the Governor, the Comptroller, or the Treasurer; and it shall be the duty of the attorney or solicitor for any county or city to institute any such suit whenever thereunto requested by the Collector of Taxes of such county or city; and it shall be the duty of each and all of said officers to request such suits to be instituted whenever taxes are overdue and unpaid, unless such taxes be sufficiently secured by lien upon real estate, or otherwise, or unless it is certain that any judgment in any such suit would be uncollectible.

150. In any such action the certificate of the authority charged with the collection of the tax, that is, the Comptroller of the Treasury, collector of any county and/or city, showing

the amount of tax due with all penalties and interest shall be *prima facie* evidence to entitle the plaintiff to judgment for the amount of such tax, penalty and interest and shall cast upon the defendant the burden of proving that the assessment was not legally made or that the tax has been paid or any other sufficient defense.

This section follows numerous precedents—i. e., Code, Art. 81, Sections 101, 180 and 191, and Baltimore City Charter, Sec. 58B.

Limitations.

151. All State, County or City taxes of every kind for which no other period of limitation is prescribed by law shall be collected within four years after they shall have become due, or else shall be utterly barred; and no such taxes shall be assessed or collected after said period; provided (a) that when collectors shall have failed to collect such taxes and receivers or trustees have within said period been appointed to complete the collection thereof, the period for collection thereof shall be extended for two years from the time of the appointment of such receivers or trustees, and (b) that any action at law or suit in equity for collection of such taxes or for sale of property to pay the same or for the enforcement of any lien therefor, may, if instituted within the period hereinabove prescribed be prosecuted as if this section had never been passed, and any judgment or decree therein may be enforced or renewed as other judgments or decrees.

This section re-enacts and extends to State taxes the provisions of Code Art. 81, Sec. 93.

Refund of Taxes.

152. The Comptroller of the Treasury and the State Treasurer in every year of the meeting of the General Assembly shall make out from their books an accurate list of the names of all persons who have erroneously or mistakenly paid into the treasury of the State more money for State

taxes than was properly and legally chargeable to them. And such list, with the amount of such taxes, shall be certified to the Governor, who shall include the same without alteration in the budget prepared by him and submitted to the General Assembly under the Constitution of this State.

Cf. Code, Art. 19, Sec. 19.

153. Whenever any person shall have erroneously or mistakenly paid to the County Commissioners of any of the counties of this State, or to the collector or treasurer for such County Commissioners, or to the Mayor and City Council of Baltimore, or its collector, more money for taxes or other charges than was properly and legally chargeable to or collected from such person, the said County Commissioners and the Mayor and City Council of Baltimore shall rectify the error and immediately levy and pay to such person any money that was so paid.

Cf. Code, Art. 25, Sec. 10.

Penal Clauses.

154. Any person who either as principal or agent shall negligently or without due excuse fail to furnish any information, or to answer any interrogatory, or file any report or list at the time and in the manner required by this article, or who shall negligently give any incorrect, untrue or misleading information or answer to any such interrogatory, or make or file any report or list which shall be in any respect incorrect, untrue or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred (\$500.00) dollars.

As stated in the Report of this Commission, this and the next three sections are a consolidation of various penal clauses now scattered through Article 81. It has seemed much simpler to have a few general sections covering all offenses against the revenue laws whether committed by private persons or by public officials, instead of a vast number of provisions with varying penalties having no relation to one another.

155. Any person who either as principal or agent shall willfully or with intent to evade the payment, or prevent or hinder the collection, of any tax, fail to furnish any information, or to answer any interrogatory, or to file any report or list at the time and in the manner required by this article, or give any incorrect, untrue or misleading information or answer to any such interrogatory, shall be guilty of a misdemeanor, and upon the conviction thereof shall be fined not exceeding five thousand (\$5,000) dollars, or imprisoned for not more than eighteen months, or in the discretion of the court, suffer both such fine and imprisonment; provided that nothing in this section shall relieve any such person from prosecution and conviction for perjury.

156. Any person who being an officer or employee of this State, or of any county or city thereof, shall negligently fail to perform any duty or do any act imposed upon him by this article, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding one thousand (\$1,000) dollars.

157. Any person who being an officer or employee of this State, or of any city or county thereof, shall willfully fail to perform any duty imposed upon him by this article, with intent to prevent or hinder the payment or collection of any tax, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five thousand (\$5,000) dollars, or imprisoned for not more than two years, or in the discretion of the court, shall suffer both such fine and imprisonment.

State Tax Commission.

158. A Commission designated as State Tax Commission of Maryland is hereby created and established, which shall be vested with and possessed of the powers and duties in this article specified. The said Commission shall consist of three

members, to be appointed by the Governor, one of whom he shall designate as Chairman, and the member so designated shall retain such status for his term of office. One of said Commissioners shall be a resident of the Eastern Shore of Maryland, one a resident of the counties of Western Shore of Maryland, and the other a resident of Baltimore City. Not more than two of said Commissioners shall be of the same political party, and each of them shall be a taxpayer and qualified voter of this State. Each of said Commissioners, before entering upon the duties of his office shall take the oath prescribed by the Constitution, to be administered by the Clerk of the Circuit Court of the County or the Superior Court of Baltimore City, according to the residence of each Commissioner, and to the Clerk of which Court, the Governor shall forward a commission to such Commissioner. The term of office of the members of said Commission shall be six years, commencing on the first Monday in June next ensuing their respective appointments, and said Commissioners shall hold office until their respective successors are appointed and qualified. The term of office of each of the Commissioners now serving and the member of said Commission now holding the designation of Chairman, shall not be extended or diminished by the passage of this statute, but each member and the Chairman shall continue as such for the balance of the term for which said Commissioners and Chairman were appointed. In case of any vacancy, the Governor shall appoint a successor for the unexpired term, subject to the limitations and qualifications contained herein. The Chairman of said Commission shall receive a salary of \$6,000 per annum and each of the two other members shall receive a salary of \$5,000, said salaries to be payable out of the Treasury of the State and be subject to Article 3, Section 35 of the Constitution:

This section is a re-codification and adaptation to present conditions of the first paragraph and first half of the second paragraph of Code Art. 81, Sec. 247.

159. The said Commission shall have a Secretary to be appointed by it, who shall keep a full and true record of all proceedings of the Commission, of all books, maps, documents and papers filed with said Commission, and of all orders made by said Commission, and he shall be responsible to said Commission for the suitable preservation and custody of all such documents. Under the direction of the Commission, the Secretary shall have general charge of its office, superintend the clerical business and perform such other duties as the Commission may prescribe. He shall have power and authority to administer oaths in all parts whatsoever of the State, so far as the exercise of such power is properly incidental to the performance of his duties or those of the Commission, and said Commission may from time to time, in a recorded minute of its proceedings, designate one or more of its clerks to administer oaths pursuant to the performance of duties assigned to such clerk by the Commission. The Commission shall designate from time to time one of its clerks to perform the duties of the Secretary during his absence, and during such time the clerk so designated shall, at the office, perform the duties of the Secretary for the Commission. The annual salary of the Secretary shall be \$4,000 per annum, payable out of the Treasury of the State.

This section defines with greater particularity the duties of the Secretary of the State Tax Commission as now set forth in the last half of the second paragraph of Code Art. 81, Sec. 247, and in Sec. 248 thereof. The salary provided for is the same as that paid under the existing budget.

160. The Commission shall have power to employ such clerks, stenographers, typewriters, inspectors and other employees as it may deem necessary in order that it may carry out the provisions of this sub-title or to perform the duties and exercise the powers conferred by law upon the Commission, at such salaries as shall be fixed by said Commission and appropriated by the General Assembly, payable out of the Treasury of the State.

This section is an amplification of a portion of Code Art. 81, Sec. 247.

161. The Commission shall adopt a seal, and the principal office of the Commission shall be in the City of Baltimore at such place as said Commission shall select and determine from time to time. The Commission shall be supplied with all necessary books, maps, charts, stationery, office furniture, telephone and telegraph connections, and all necessary appliances and incidentals, to be paid for out of the funds appropriated for expenses by the General Assembly. The offices of said Commission shall be open for business during the hours of 9 o'clock A. M. and 4 o'clock P. M. on each secular day of the week (other than legal holidays), except Saturday, when they shall be open between the hours of 9 o'clock A. M. and 12 o'clock Noon, and one or more responsible persons, to be designated by the Commission or the Secretary under the direction of the Commission, shall be on duty at all such times in immediate charge thereof.

This section is in part declaratory of existing law, and in part new. See Code, Art. 81, Sec. 256.

162. A majority of the Commission shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the Commission, and it may hold meetings at any time and place within this State. Any investigation, inquiry or hearing which the Commission has power to undertake or hold, may be undertaken or held by or before any one of said Commissioners, upon condition, however, that said Commissioner shall have been first authorized by the Commission to undertake or hold such investigation, inquiry or hearing, and all investigations, inquiries or hearings of or by a Commissioner shall be, and be deemed to be, the investigation, inquiry and hearing of the Commission; provided, that each and all decisions of a Commissioner shall not become effective until approved by the Commission itself. The determination of any matter brought before the Commission shall be evidenced by a judgment or order duly signed by at least

two of its members and filed with its Secretary. A copy thereof, duly certified by said Secretary, under the seal of the State Tax Commission, shall be evidence in any cause or proceeding in any court of this State.

See Code, Art. 81, Secs. 256 and 257.

163. The Commission shall have power to provide for a system of hearings on petitions of appeal filed with it adopting such reasonable rules of procedure relating to taking testimony and argument thereon as it shall deem proper. It shall adopt such regulations regarding notices of assessments made by it and hearings thereon as it may deem proper.

This is a re-codification of a part of Code Art. 81, Sec. 256.

164. The Attorney General shall be the legal adviser and representative of the Commission and shall deliver opinions to said Commission on the request of a majority of said Commission, or of the Chairman thereof.

The present statute, Code Art. 81, Sec. 247, provides that the Commission may appoint a general counsel, but this provision is repealed by Code, Art. 32A, Sec. 3, which makes the Attorney General the legal adviser of the Commission.

165. The Commission, or any member thereof, or the Secretary, shall have power to issue summons for witnesses to appear in any cause then properly pending before said Commission, the same to be served by the sheriff or his deputy of the jurisdiction where the person to be summoned is found, or may be served by any employee of said Commission. If a person summoned to attend before the Commission or a Commissioner fails to obey the command, without reasonable cause, or if a person in attendance before the Commission or a Commissioner shall, without reasonable cause, refuse to be sworn or examined, or answer a question, or produce a book or paper when ordered to do so pursuant to summons, the Commission or Commissioner may apply to any Judge of the Supreme Bench of Baltimore City or

of the Circuit Court of any county, upon proof by affidavit of the fact, for a rule or order returnable within not less than two nor more than five days, directing such person to show cause before the Judge who made the order, or any other Judge of the same Circuit, why he should not be adjudged guilty as of a contempt and punished as contempts are punishable by courts of record. Upon the return of such an order, the judge, before whom the matter shall come on for hearing, shall examine under oath such person, with full opportunity to such person to be heard in his own defense. If the judge shall determine that such person has no reasonable cause or legal excuse to be examined or to answer a legal and pertinent question, or to produce a book or paper which he was summoned to produce, the judge shall order such person to comply therewith and upon his failure so to do, he shall be adjudged in contempt of court and punished as contempts are punishable, with the right of appeal as provided in contempt cases.

This section makes more definite, precise and efficient the method of summoning witnesses by the State Tax Commission and compelling their attendance.

166. The jurisdiction, supervision, powers and duties of the State Tax Commission herein created and established shall extend under this article—

This section defines the powers and duties of the State Tax Commission, re-codifying with some additions and changes in phraseology Code, Art. 81, Sec. 249.

(1) To assess all persons or properties by this article are to be assessed by it, and to perform all duties imposed upon it by this article.

This sub-section is doubtless surplusage, and is inserted rather for emphasis than any other purpose.

(2) To supervise the administration of the assessment and tax laws of Maryland, and of each county or city thereof.

This repeats in substance Code, Art. 81, Sec. 249(1).

(3) To supervise the performance of the duties imposed by law, or by the Commission, upon the Supervisors of Assessments appointed for the various counties and Baltimore City, and in pursuance thereof said Commission is authorized and directed to officially designate one of its employees as "Chief Supervisor of Assessments," whose duty it shall be, under the control of the State Tax Commission, to supervise the performance of the duties by the various supervisors of assessments and supervise, the performance of the duties of various assessors appointed by the County Commissioners of this State.

This is inserted to make more particular and definite the powers given by the preceding sub-section.

(4) To supervise the assessment of all property in the counties and cities of this State to the end that all taxable property shall be entered upon the assessment rolls and equalized between persons, firms and corporations, so that all persons, firms and corporations shall be assessed alike for like kinds of property.

This sub-section is inserted for emphasis and as a guide to the Commission in performing its duties now mentioned in more general terms.

(5) To establish forms of reports and notices of assessment by Assessors and by the County Commissioners and the Appeal Tax Court of Baltimore City as well as schedules to and notices from the State Tax Commission, as well as forms of assessment and collection books and forms of financial and statistical reports of County Commissioners and the Appeal Tax Court of Baltimore City to the State Tax Commission. Tho State Tax Commission is empowered to require all local officials to use the forms prescribed by the Stato Tax Commission, and shall have power to examine the assessment and collection books of local governing bodies, assessing officials and tax collectors.

This is a re-codification and amplification of Code, Art. 81, Sec. 249(3).

(6) To provide, subject to the approval of the Comptroller of the Treasury, for a uniform system of accounts to be used by all collectors of State taxes.

This re-codifies Code, Art. 81, Sec. 249(3), with an amendment requiring the approval of the Comptroller.

(7) To formulate, whenever the Commission shall deem it practicable, standards or units for the assessment of various kinds of property, and to issue instructions to local supervisors of assessments in regard thereto and to require the use thereof. To confer with County Commissioners and the Appeal Tax Court of Baltimore City and visit each county as often as necessary.

(8) To enforce and execute a continuing method of assessment, and to require that all property in the State be reviewed for assessment at least once in every five years; provided that the Commission shall not be required to order a general assessment of all property, or all property of any class, in any county at least once in every five years, but may order and enforce reassessments annually by classes or districts but so that all assessable property in every county shall be thoroughly reviewed at least once in every five years.

This re-codifies Code, Art. 81, Sec. 249(6), with an amendment expressly providing that in any county the Commission shall not be bound to order a general re-assessment at least once in every five years, but may order annual re-assessments by classes or districts, provided the whole county be covered in each period of five years. In other words, the Commission is expressly permitted to adopt in the counties the method of re-assessment required in Baltimore City. The State Tax Commission probably has this power already, but as stated in the body of the Report of the Tax Revision Commission, it is deemed advisable to remove any possibility of doubt that the State Tax Commission has ample power to order what seems to us to be, generally, the first course.

(9) To require individuals, firms and corporations to furnish complete information as to the ownership by them of all property taxable to them and the facts relating to the value thereof.

This is equivalent to Code, Art. 81, Sec. 249(7)

(10) To investigate at any time, on its own initiative, assessments against any or all properties in any county and/or city.

This is equivalent to Code, Art. 81, Sec. 249(8)

(11) To inquire into the provisions of law of other States and jurisdictions regarding the suits of property for taxation and to confer with tax commissioners or assessing or collection officers of other States regarding the most effectual and equitable method of assessment of property or collection of taxes, particularly regarding the best method of reaching all property subject to assessment and taxation and avoiding conflict and duplication of taxation of the same property.

This is a re-enactment of Code, Art. 81, Sec. 249(9), with the elimination of superfluous clause.

(12) To confer with the Governor, Comptroller and Treasurer of this State as to the administration of the tax laws, and to report biennially to the General Assembly its proceedings with recommendations for legislation.

This is a repetition of Code, Art. 81, Sec. 249(11).

167. In each county of the State and in Baltimore City there shall be a Supervisor of Assessments who shall be a resident thereof and who shall be appointed by the State Tax Commission from a list of five persons submitted to said Commission by the County Commissioners of each county and by resolution of the Mayor and City Council of Baltimore in the case of the Supervisor of Baltimore City, and said supervisors shall be removable at any time by the State Tax Commission for incompetency or other cause. The Supervisors of Assessments of the several counties and of Baltimore City shall not be deemed or taken to be subject to any of the provisions of Article 64-A of the Code of Public General Laws of Maryland (1924), entitled "Merit System." The Supervisors shall hold no other public office of profit or trust either under the State or the County or City for which they may be appointed. If the State Tax Commission

deem fit to be appointed none of the persons whose names are upon the list submitted as aforesaid, they may reject all the nominations and call for a new list. In case the County Commissioner of any county or the Mayor and City Council of Baltimore shall fail to furnish the list herein provided for within twenty days after notice from the State Tax Commission the said Commission shall have power to fill such office immediately after the expiration of such time. The supervisors shall be furnished with an office at the county seat by the County Commissioners of each county, and the Supervisor of Assessments for Baltimore City shall likewise be furnished an office in Baltimore City by the Mayor and City Council; and they shall be allowed such clerical help and expense as the County Commissioners and the Mayor and City Council of Baltimore shall respectively determine. They shall confer frequently with the State Tax Commission, submitting questions for determination to that Commission and shall receive and carry out instructions given by the Commission or the Chief Supervisor of Assessments appointed by the Commission for their guidance in supervising the valuation and assessment of real and personal property; they shall likewise keep constantly informed of the method of work pursued by other Supervisors of Assessments.

Cf. Code, Art. 81, Sec. 250.

168. The Supervisors of Assessments shall have general supervision over the assessment of all property in the County or City for which they are appointed. They shall have power to recommend assessments to the County Commissioners or other authority as required by law, and shall have power, and are charged with the duty, to appeal to the State Tax Commission from any and all assessments or rulings which such supervisors shall consider improper when made by the several boards of County Commissioners in the Counties or the Appeal Tax Court in Baltimore City. They shall visit each district of the County for which they are appointed at

frequent intervals, obtaining all necessary data and information as to the valuation and existence of property subject to taxation, keep posted on sales in the county, with conditions attending said sales, and report the same and the consideration thereof to the State Tax Commission and the County Commissioners. From these reports and the evidence obtainable, it shall be determined by the respective County Commissioners whether the assessment against any property or whether any unit of assessment values in any district shall be changed. In case the data submitted is not satisfactory either to the State Tax Commission or the County Commissioners, either shall have the power to obtain additional data, and in case the assessment so determined upon is not satisfactory, the County Commissioners or the State Tax Commission shall order a new valuation.

169. The Supervisor of Assessments of Baltimore City shall have access to the assessment books of Baltimore City, and all records of the Appeal Tax Court of Baltimore City, and the returns of all assessments made by assessors. He shall have authority to inquire into the assessment of any and all properties and to report the results of his investigations to the Appeal Tax Court of Baltimore City and to the State Tax Commission, and to recommend such changes as he may deem proper. Upon any investigation which shall prima facie establish inequality or inadequacy of valuation of any property in Baltimore City or any class or kind of property or any omission from assessment of any taxable property, he shall immediately report such investigation with recommendations to the State Tax Commission, which shall have the power to order the Appeal Tax Court to reassess such property and to have the same entered on the assessment books.

This is a recodification of Code, Art. 81, Sec. 251, without material change.

170. The annual salaries of the Supervisors of Assessments shall be based on the aggregate value of property assessed for taxation in the county or city for which such supervisor is appointed and said salaries shall be as follows:

If the aggregate value shall not exceed \$5,000,000 the annual salary shall be \$700.

If over	\$5,000,000 and less than	\$10,000,000..	\$900
If over	\$10,000,000 and less than	\$15,000,000..	1,000
If over	\$15,000,000 and less than	\$20,000,000..	1,100
If over	\$20,000,000 and less than	\$25,000,000..	1,300
If over	\$25,000,000 and less than	\$30,000,000..	1,500
If over	\$30,000,000 and less than	\$35,000,000..	1,600
If over	\$35,000,000 and less than	\$40,000,000..	1,700
If over	\$40,000,000 and less than	\$45,000,000..	1,800
If over	\$45,000,000 and less than	\$50,000,000..	1,900
If over	\$50,000,000 and less than	\$55,000,000..	2,000
If over	\$55,000,000 and less than	\$60,000,000..	2,100
If over	\$60,000,000 and less than	\$65,000,000..	2,200
If over	\$65,000,000 and less than	\$70,000,000..	2,300
If over	\$70,000,000 and less than	\$75,000,000..	2,400
If over	\$75,000,000 and less than	\$80,000,000..	2,500
If over	\$80,000,000 and less than	\$85,000,000..	2,600
If over	\$85,000,000 and less than	\$90,000,000..	2,700
If over	\$90,000,000 and less than	\$95,000,000..	2,800
If over	\$95,000,000 and less than	\$100,000,000..	2,900
If over	\$100,000,000 the salary shall be.....		3,000

All of said salaries shall be payable on and after October 1st, 1929, out of the treasury of the State of Maryland. The amounts of said salaries shall be included by the State Tax Commission in its budget to the Governor to be transmitted by him to the General Assembly and the amounts for said salaries shall be forwarded by the Comptroller to the State Tax Commission to be by the latter paid to the Supervisors.

This re-enacts Code, Art. 81, Sec. 255, as amended by the Act of 1927, Ch. 570, with some alterations recommended by the State Tax Commission.

171. The Local Supervisor of Assessments provided for in this article shall, in addition to his other duties act as

chief assessor in his particular county, with such additional duties as the State Tax Commission shall determine and designate. At such time as shall be ordered by the State Tax Commission, each of the several Boards of County Commissioners in the State of Maryland shall appoint such number of County Assessors as shall be ordered by the State Tax Commission; and for incompetency or any other cause, the State Tax Commission shall have the authority and power to dismiss and discharge any of such County Assessors, and to require the County Commissioners of any of the several counties as the case may be, to appoint a competent individual to fill vacancy, or the said State Tax Commission in its discretion shall have the authority and power to fill said vacancy with a competent individual. The rate of compensation of the County and additional Assessors, as well as all other expenses incident to local assessment, shall be fixed and levied for by the several Boards of County Commissioners.

This is a re-enactment of Code, Art. 81, Sec. 262.

172. All assessors appointed under the provisions of this article shall take and subscribe to the oath provided for in the Constitution before the Clerk of the Circuit or Superior Court, or one of his deputies, of the County or City for which they shall act.

This is a re-enactment of Code, Art. 81, Sec. 263.

173. The State Tax Commission from time to time shall formulate a uniform plan for the assessment of property, which shall be followed strictly by the County Commissioners of the several counties in the State, and by the Appeal Tax Court and by all county and city assessors, for all subsequent reassessments and reviews of assessments authorized by this article.

This section is a substantial re-enactment of Code, Art. 81, Sec. 264.

174. The County Commissioners of the several counties of the State shall provide by levy an amount sufficient to

pay for the expense of assessment of property in their respective counties upon the order of the State Tax Commission.

This re-enacts Code, Art. 81, Sec. 265.

175. In the event that any of the several Boards of County Commissioners or the Appeal Tax Court neglect or refuse to include in the levy succeeding the date of notification from the State Tax Commission the amount necessary to reassess property in the particular county the amount of which is in the preceding section provided for, or in the event any of the several Boards of County Commissioners or the Appeal Tax Court shall neglect or fail to follow the instructions of the State Tax Commission, either as to the method or plan of assessment, or failure to appoint assessors as hereinbefore provided, then in that event, the State Tax Commission may institute mandamus proceedings against any such Board of County Commissioners of any county so refusing and a mandamus shall issue compelling any such board to perform the duties herein provided.

This section re-enacts Code, Art. 81, Sec. 266.

176. Each County Commissioner of a county having three Commissioners shall receive five dollars (\$5) per day for actual services rendered in connection with the reassessment of property in their county, and the County Commissioners of the counties having more than three Commissioners shall each receive three dollars (\$3) a day for actual services rendered in the assessment of property in their county, except in Prince George's County, wherein each of the five County Commissioners shall receive five dollars (\$5) per day for actual services rendered in the assessment of property in Prince George's County, but the State Tax Commission is given the authority to decide how much time is necessary to do this work, and if the Commissioners of any county have not completed their work within that time, then in that event the necessary time to complete it must be done without

compensation. The County Commissioners of the several counties in connection with the reassessment of the property in their respective counties, shall have the power to appoint a clerk or clerks in addition to the regular clerk to the board, who shall receive for each day of actual service such compensation as shall be fixed by the County Commissioners. The Counsel to the County Commissioners in their respective counties shall be counsel to the said Commissioners in regard to the reassessment of property in their respective counties, and shall be entitled to a fair and reasonable compensation for services rendered to said County Commissioners, in addition to the salary as counsel to said County Commissioners; all of which compensation for the County Assessors, County Commissioners acting in regard to the reassessment of property in their respective counties, their clerk or clerks and counsel shall be paid by the counties in which said duties are respectively performed, and the accounts for these services rendered shall be approved by the County Commissioners for such county before the same are paid.

This section re-enacts Code, Art. 81, Sec. 267, as amended by the Act of 1927, Ch. 402.

177. At any time that an assessment of all of the property, or all the property of any class, in any county, or any part thereof is to be made, notice of proposed assessment may be made by publication in one or more newspapers published in the county or in such other reasonable manner as the State Tax Commission may determine.

This is a re-enactment of Code, Art. 81, Sec. 268, with the substitution of the word "reasonable" for uniform.

178. Every corporation subject to assessment on its property or any part thereof by the State Tax Commission, and any corporation the shares of whose stock are subject to assessment by the State Tax Commission, and any corporation, firm or individual against whom any tax is to be calculated by the State Tax Commission under this article shall

file with the said Commission an annual report in such manner and containing replies to such interrogatories as may be determined upon by said Commission, including a list of its stockholders, with their addresses and the number and/or class of shares held by each, in order that it may perform any duties imposed upon it by this article, said report to be filed not later than the first day of January in each and every year as of the first day of October preceding said first day of January; and said Commission in determining any tax or in entering any assessment against any corporation shall base its action upon the status of such corporation as of said October first. The said Commission shall have power to require any such report to be under oath of such officer or officers as it may determine. In case of the failure of any corporation to make and file such report within the time hereinabove provided, the State Tax Commission may proceed to determine or assess such tax, or take such action, upon such information as it can obtain; provided, however, that no such action by the Commission shall relieve the corporation from any tax which it ought to have paid, or exonerate it or its officers from any penalty or punishment to which it or they may by law be subject, and the State Tax Commission shall also have the right to compel the filing of such report by mandamus.

This section deals with reports by corporations to the State Tax Commission. The matter is now covered by sundry sections of the Code—*e. g.*, Art. 81, Sections 158, 159, 163, and 164. It is now designed to have one general provision sufficiently broad and elastic to enable the State Tax Commission to get any information which it may legitimately need.

179. Upon the failure of any corporation to file any report required by the last preceding section within the time therein specified the State Tax Commission shall impose on said corporation a penalty of five dollars, and in addition one dollar for each ten days or fractional part thereof during which such default shall continue, and a further penalty of ten dollars if such default shall have continued for more than

eighty days. Such penalties shall be added to and become a part of any State tax assessed by the State Tax Commission against said corporation, and may be collected from said corporation by the Comptroller by suit or otherwise in the same manner as taxes. Provided, however, that the State Tax Commission shall have power on good cause shown to it to abate or reduce any penalty imposed as aforesaid, and in that event the said Commission shall forthwith notify the Comptroller of such abatement or reduction, and only the balance, if any of the penalties remaining after such abatement or reduction shall be collected as aforesaid.

This section re-enacts in somewhat condensed form the provisions of Code, Art. 81, Sec. 159, as to the penalties for failure of corporations to file the reports to the State Tax Commission required of them.

180. Every foreign corporation of any kind doing business in this State or owning any property therein shall annually on or before the first day of January file with the State Tax Commission a report under oath of its president and treasurer giving the names and addresses of each shareholder, as of the first day of October preceding appearing on its books as residing or known or believed to reside in this State, together with the number and/or class of the shares held by him or them. Such report shall be in such form as the State Tax Commission may prescribe, and shall contain such further information, if any, as the State Tax Commission may require in order to determine whether said shares are taxable and the taxable value thereof and the correctness or incorrectness of said lists. If any such foreign corporation shall fail to file such report within the time hereinabove specified and for fifteen days after a demand therefor in writing by the State Tax Commission, it shall forthwith and without the necessity of any judgment or decree of ouster, forfeit all right to do business in this State and shall be in all respects subject to the same penalties, rules and legal pro-

visions as if it had never been licensed to do business in this State.

This section requires reports by foreign corporations as to their resident shareholders so as to enable the proper authorities to assess the holders for the securities tax. To some extent, no doubt, this section overlaps Section 178.

181. Immediately upon the receipt of any of the reports or other information mentioned in the last two preceding sections, the State Tax Commission shall transmit to the County Commissioners of each county and the Appeal Tax Court of Baltimore City any and all facts contained in such report or other information which may be necessary to enable them respectively properly to assess any shares of stock or other property which may be subject to assessment under this article in their respective jurisdictions.

This section is inserted to make available to the local assessing authorities any information which the reports to the State Tax Commission may disclose and which may be pertinent to the proper performance of their duties by the local authorities.

Appeals.

182. Any taxpayer, or city, or the Attorney General on behalf of the State, may in writing at any time before October 1st in any year, demand a hearing before the County Commissioners or the Appeal Tax Court of Baltimore City as to the assessment of any property or any unit of tax value, or as to the increase or reduction or abatement of any such assessment, or as to the classification thereof, for the next ensuing year; and no formal proceedings shall be required. In case of any such hearing any party in interest may file data and information bearing thereon, without regard to the technical rules of evidence. Any such person or corporation so demanding a hearing may also in writing file information with the County Commissioners or the Appeal Tax Court of his address or the address of the agent or attorney to which any notices pertaining to said matter shall be sent.

If any such address shall be filed it shall be the duty of the County Commissioners or the Appeal Tax Court to cause a statement of the order or action or refusal to act of such County Commissioners or Appeal Tax Court to be posted in the United States Mails, postage prepaid, to such address, and no action or refusal to act shall be operative as against the person giving such address until such statement shall be so mailed.

This section relates to hearings before the County Commissioners or the Appeal Tax Court, and does not differ greatly from the existing law, except that it allows the taxpayer to file his address or that of his attorney, and requires that, if he does so, notice of any action taken by the County Commissioners or Appeal Tax Court must be mailed to that address.

183. Any taxpayer, any city, or the Attorney General on behalf of the State, or a supervisor of assessments as provided in Section 175 of this article, claiming to be aggrieved because of any assessment or classification, or because of any increase, reduction, abatement, modification, change or alteration or failure or refusal to increase, reduce, abate, modify or change any assessment, or because of any classification or change in classification, or refusal or failure to make a change, by the County Commissioners or the Appeal Tax Court of Baltimore City, may by petition appeal to the State Tax Commission therefor, and the State Tax Commission shall hear and determine all such appeals within sixty days from the entry thereof with said Commission. Such appeal to the State Tax Commission shall be taken either (a) within thirty days after the date of the action or failure or refusal to act complained of, or (b) if an address shall have been filed with the County Commissioners or the Appeal Tax Court by any person or corporation demanding a hearing as in the next preceding section provided, then by the person giving such address within thirty days from the date of the mailing of the notice of the action by the County Commis-

sioners or the Appeal Tax Court to the person and address so given.

This section provides for appeals from the County Commissioners or Appeal Tax Court to the State Tax Commission. It is very similar in substance to the existing law except that if an address shall have been filed by the taxpayer as provided in the last preceding section it allows him to count the time for taking his appeal from the date of mailing to said address the notice of the action or inaction complained of.

184. A petition of appeal provided for in the last preceding section shall set forth that the assessment or classification is illegal, specifying the ground of alleged illegality, or is erroneous by reason of over-valuation or under-valuation, or that the assessment is unequal in that it has been made at a higher proportion of value than other property of the same class, or said petition may assign any other errors which may exist in the particular case for which an appeal is allowed, and on account of which petitioner claims to be injured. A summons, as well as a subpoena duces tecum, shall issue from the State Tax Commission for the defendant named in such appeal requiring it to produce at the hearing before the Commission the record of its proceedings as well as all maps, plats, documents and other papers connected with the record, and the record, or a copy of the record when properly certified by the signatures of the assessing authority, shall be evidence before said Commission in the hearing. The State Tax Commission shall have full power to hear, try and determine the matter, and may require all defendants, their clerks and surveyors, or other agents as they may deem necessary, to attend and examine them on oath or affirmation and may permit or require all such explanations, amendments and additions to be made to any of the proceedings, including the petition of appeal, as it shall determine, so that the case may be properly heard and determined. The said Commission shall not be bound by the technical rules of evidence; but at the request of any party and at his expense

all evidence, testimony or facts on which said Commission may act and on which its decision shall be based shall be reduced to writing and filed among the records of the Commission relating to said appeal. The said Commission is empowered to assess anew, classify anew, abate, modify, change, or alter any assessment or classification appealed from, provided that in the absence of any affirmative evidence to the contrary, or of any error apparent on the face of the proceedings the assessment or classification appealed from shall be affirmed. The said Commission shall cause its decisions on all appeals to be made within the time prescribed and to be certified by its Secretary under the seal of said Commission to the assessing authorities from which the appeal was taken, and to all other parties to said appeal; and such decision shall be final and conclusive in every respect unless an appeal be taken to court as hereinafter provided.

This section prescribes the form and grounds of appeal to the State Tax Commission in much the same form as the existing law. See Code, Art. 81, sections 24 and 25, and Baltimore City Charter, sec. 170.

185 (a). In any proceeding before the State Tax Commission, either an original proceeding or an appeal from the County Commissioners or the Appeal Tax Court, any party in interest may file information in writing with the State Tax Commission of his address or of the address of his agent or attorney to whom all notices pertaining to said proceeding may be sent, and thereafter a copy of any order of the State Tax Commission in said matter shall be delivered to such party or his agent or attorney, or mailed, postage prepaid, to the address aforesaid; but nothing herein contained shall require any person to file such information in order to appeal as in the next succeeding section provided.

This sub-section merely allows the filing of an address for the receipt of notices by any party to a proceeding before the State Tax Commission, similar to the provisions of the same nature as to proceedings before the County Commissioners or Appeal Tax Court.

(b) In any proceeding before the State Tax Commission, whether appellate or original, any party may submit requests for rulings on points of law, similar to prayers in non-jury cases in courts of law, and the said Commission shall grant, reject or modify the same, so far as may be material to its decision.

This sub-section provides a simple method of obtaining rulings by the State Tax Commission on points of law as a foundation for an appeal to court on questions of law.

186. Any taxpayer, any city, the County Commissioners of any county, or the Attorney General on behalf of the State, claiming to be aggrieved because of any final action taken by the State Tax Commission, whether exercising its appellate or its original jurisdiction, in assessing or refusing to assess or in re-assessing or refusing to re-assess, classifying or refusing to classify, any property or computing any tax, or in increasing, reducing or abating any assessment, may appeal to the Circuit Court of any county sitting in equity, or the Circuit Court or Circuit Court No. 2 of Baltimore City, in which the property or any part of the property the assessment of which is involved may be situated, or in which the taxpayer may reside or be taxable in respect thereto, or in which the office of the Commission may be situated. All such appeals shall be upon the record of proceedings before the State Tax Commission certified to the Court by said Commission, including a statement of all facts considered by said Commission on which its finding was based. Either side may introduce additional testimony or other evidence in the Circuit Court. Such petition of appeal shall set forth concisely the particulars in which the action of the Commission is claimed to be unlawful, unreasonable or against the substantial weight of the evidence. If the Court finds such error it shall remand the case to the Commission for further proceedings in accordance with its opinion or order; otherwise the action of the Commission shall be affirmed. From the final decision of the Court hearing such appeal any party named in this section may take an appeal to the Court of Appeals in the same

manner as in other equity cases, but within ten days after the order appealed from; and the Court of Appeals shall immediately hear and determine such appeal.

This section relates to appeals from the State Tax Commission to court. It differs from the existing law in the following respects: (1) It allows an appeal from action of the State Tax Commission in the exercise of its original, as well as its appellate jurisdiction. The only appeal now allowed from the State Tax Commission in a matter within its original jurisdiction is, in certain cases, to the Comptroller and the Treasurer of the State, who, of course, are not equipped to act in this quasi-judicial capacity. This section substitutes an appeal to Court. (2) If the Court on appeal finds error either of law, or of fact in disregarding the substantial weight of the evidence, it shall not be required to correct the assessment, but shall remand the case to the State Tax Commission, which shall enter the correct assessment according to the mandate of the Circuit Court, with, of course, the right of a second appeal if it should fail to do so, or commit any other error for which an appeal would have lain in the first instance. (3) The appeal lies to a court of equity instead of to a court of law sitting without a jury. The distinction is perhaps not very important, but, in view of Section 6 of Article XV of the Constitution requiring a jury trial on all issues of fact in a court of law, seems advisable.

The provision for an ultimate appeal from the Circuit Court to the Court of Appeals is substantially the same as in the existing law.

187. The appeal from the State Tax Commission provided for in the last preceding section shall be taken within fifteen days from the date of the order, action or refusal to act of the State Tax Commission, or if an address shall have been filed as hereinabove provided, then within fifteen days after the mailing, postage prepaid, of a copy of such order, action or refusal to act, to such address.

This section merely limits the time for appealing from the State Tax Commission to thirty days as at present.

188. No appeal to the State Tax Commission from the County Commissioners or the Appeal Tax Court, and no appeal from the State Tax Commission to a Circuit Court, or from a Circuit Court to the Court of Appeals, shall stay or in any manner affect the collection or enforcement of the

assessment or classification complained of; but upon the final determination of any such appeal any taxes which such determination may show to have been illegally collected, shall be to the extent of illegality forthwith refunded with interest, and the disbursing officers of the State and of the several counties and cities of the State are authorized and directed forthwith to make such refunds.

This section is in substance the same as the existing law. See Code, Art. 81, Sec. 24, and Sec. 26.

SECTION 2. *And be it enacted*, That Sections 106, 107, 108, 109, 110, 111, 112, 113, 114, 122, 123, 124 and 250 of Article 23 of the Code of Public General Laws of Maryland (1924), entitled "Corporations," and Section 11 of Article 25 of the said Code of Public General Laws of Maryland entitled "County Commissioners," Section 603 of Article 27 of the said Code of Public General Laws of Maryland entitled "Crimes and Punishments," Section 81 of Article 93 of said Code of Public General Laws, title "Testamentary Law," be and they are hereby repealed.

The laws proposed to be repealed are all either inconsistent with the provisions of this article or else are incorporated therein so that their duplication in other parts of the Code would be confusing.

SECTION 3. *And be it enacted*, That Sections 206 to 212, inclusive, of Article 81 of the Code of Public General Laws (1924), title "Revenue and Taxes," sub-title "Taxation of Dogs," be and they are hereby re-enacted without change as additional sections to Article 56 of the Code of Public General Laws (1924), title "Licenses," to be known as Sections 267, 268, 269, 270, 271, 272, 273, under the sub-title "Dog Licenses in Counties," so as to read as follows, provided that such re-enacted sections shall have no greater effect than if the corresponding sections of Article 81 had not been repealed:

It seems wise to transfer the provisions as to dog licenses from Article 81 to Article 56, entitled "Licenses," where the provisions as to other licenses are found. It is believed, moreover, that in

many counties dog licenses are covered by local laws, and lest the effect of re-enacting these general provisions should be to repeal such local laws, it is declared that the re-enacted or transferred sections shall have no greater effect than if the corresponding sections of Article 81 had not been repealed.

Dog Licenses in the Counties.

267. On or before the first day of July, 1918, and on or before the first day of July of each year thereafter, the owner of any dog, six months old or over, shall apply either orally or in writing, to the County Treasurer or Clerk to the County Commissioners in Counties having no Treasurer of the county in which he or she resides or to a Justice of the Peace of any district in said county for a license for each such dog owned or kept by him, and such application shall be accompanied by a fee of one dollar (\$1.00) for each male dog or each spayed female dog; and a fee of two dollars for each unspayed female dog, and provided that a kennel license shall be issued for ten dollars (\$10.00) to persons owning or keeping not in excess of twenty-five dogs and that a kennel license fee of twenty dollars (\$20) shall be issued to persons keeping more than twenty-five dogs. Provided, further, that in Talbot County the fee for a male dog or a spayed female dog shall be \$1.50 and the fee for an unspayed female dog shall be \$3.00. The said license or fee shall be the only license or tax required for the ownership or keeping of said dog or dogs. Such license shall be issued on a form prepared and supplied by the county commissioners. Such license shall be dated and numbered, and shall contain a description of the dog licensed. All licenses shall be void upon the first day of July of the following year. The county commissioners shall also furnish, and the county treasurer, or Justice of the Peace, issuing the license, shall issue, with each license, a metal tag. Such tag shall be affixed to a substantial collar. The collar shall be furnished by the owner, and with the tag attached shall at all times be kept on the dog for which the license is issued, except when confined in the kennel or when hunting in charge of an attendant.

268. The county commissioners of the several counties shall prepare, and furnish annually to the county treasurer, Clerk to County Commissioners in Counties having no Treasurer, and to the Justices of the Peace of the respective counties metal tags to be given to the owners of dogs when such owners shall pay the license fee for said dogs. Such tags shall be of metal, and shall have serial number corresponding with the number on the license issued to said owner, as provided in the preceding section. Such tags shall also have impressed thereon the calendar year for which such tag is issued, and shall not be more than one inch in length, and shall be equipped with a substantial metal fastening device. The general shape of said tag shall be changed from year to year, and the tags furnished owners of kennels shall have the word "kennel" thereon. If any such tag is lost, it shall be replaced by the county treasurer, or Justice of the Peace, upon application by the person to whom the original license was issued, upon production of such license and payment of a fee of twenty-five cents.

269. Any Justice of the Peace of the several counties after having received and receipted for necessary blanks and tags, may issue such dog licenses and tags in like manner as prescribed for the issuance of licenses by the County Treasurer. When a license is issued by the Justice of Peace, the said Justice of the Peace, may retain as his fee for the issuance of said license, reporting the same, and remitting payment therefor, to the County Treasurer, or Clerk of the County Commissioners in counties having no Treasurer, the sum of twenty-five cents. Such report and remittance shall be made by the Justice of the Peace at the end of each month; whereupon the County Treasurer shall make a record of, and otherwise treat, said license as though it had been issued from his office, except that he shall also note upon his record the name of the Justice issuing the license. Every Justice of the Peace shall deliver the book or books from which he had issued license, together with the stubs therein properly filled out and showing the name of each licensee and the

number of the license issued to him to the County Treasurer or Clerk to the County Commissioners in counties having no Treasurer before the first day of July of each year. Any person becoming the owner after the first day of July of any dog six months or over which has not already been licensed, or any person owning or keeping a dog which became six months old at any time after the first day of July of any year, shall forthwith apply for and secure a license for such dog in the same manner as the annual license is obtained under the provisions of this sub-title.

The County Commissioners of the several counties are authorized to provide for the employment of special officers or constables whose duty it shall be to enforce the payment of the dog license fees or taxes provided in this sub-title, and the said Commissioners are authorized to pay such special officers out of the moneys arising from the said dog license or taxes in the respective counties.

These Constables of the several counties may also receive and receipt for necessary blanks and tags, may issue such dog licenses and tags in like manner as prescribed for the issuance of licenses by a County Treasurer or a Justice of the Peace. Every constable shall at the end of each month report to the County Treasurer or Clerk to the County Commissioners in counties having no Treasurer the number and character of licenses issued and remit all moneys received for these licenses. Also every constable shall deliver the book or books from which he issued license, together with the stubs therein, properly filled out and showing the name and the number of the license issued to him to the County Treasurer, or Clerk to the County Commissioners in counties having no Treasurer before the first day of July of each year.

270. Any person may kill any dog which he sees in the act of pursuing, worrying, wounding or killing any poultry or live stock, or attacking human beings whether or not such dog bears the proper license tag required by these provisions. There shall be no liability on such persons in damages or otherwise for such killing.

Any unlicensed dog that enters any field or yard shall constitute a private nuisance and the owner or tenant of such field or yard, or other agent or servant, may kill such dog while it is in the field or yard without liability or responsibility of any nature for such killing and any person may kill a female dog running at large while in heat without liabilities therefor.

271. All monies arising from the dog licenses or taxes shall be kept in a separate fund by the treasurer of the respective counties, and shall be used for the payment of damages for the injury and killing of sheep, poultry or other livestock in said respective counties. In the event the same are not sufficient for the payment of all such damages the said damages shall be paid in the order the claims are presented, and any person or persons whose claims are not paid in any one year by reason of the lack of money to the credit of the said fund, which is to be designated "The Dog License Fund," shall be paid out of the first money coming into the fund after his claim is reached, and shall be paid in the order in which said claims are proved and filed; and any claims now filed and passed upon, but remaining unpaid, shall have preference over any new claims in the order of payment. Any fund in excess of one thousand dollars (\$1,000) remaining in the hands of the treasurer of any county after the payment of the claims as aforesaid, unused for such purpose at the end of each fiscal year, shall be used by said county either for the public schools, or for the public roads, as the board of county commissioners of said county may direct.

272. When any inhabitant of any county shall have any sheep, poultry or live stock destroyed or injured by a dog or dogs, he may apply to any Justice of the Peace of said county, who shall appoint three disinterested persons as appraisers to view and appraise the damages by him sustained, and they, or a majority of them, under oath, shall state in writing to the County Commissioners of said county, the number of sheep, poultry, or live stock killed, the character and extent of

the injury, if any done, and the amount of the damages sustained by the owner; and both the appraisers and the owner of the sheep, poultry or live stock shall make oath that they believe the same to have been destroyed or injured by a dog or dogs; and when the report of such proceedings has been filed, the County Commissioners of said county shall review said report, and if in their judgment the amount of damages stated is unfair, they shall award such amount as they may deem fair; which award shall be paid out of the fund hereby created; provided, however, that the said sworn report of the appraisers shall be deemed prima facie evidence of the fairness of the award of damages in each instance; and provided, further that the County Commissioners shall not change such an award unless they shall have personal knowledge of its unfairness, or shall receive competent testimony to the effect that the award is in excess of a fair commercial valuation of the sheep, poultry or live stock injured or destroyed by dogs. And if the owner of the dog or dogs doing the damage be known, it shall be the duty of the County Commissioners to notify such owner or owners to kill said dog or dogs immediately. If such dog or dogs be killed by the owner, after notice as aforesaid, he shall be exempt from all further liability, but in case the said owner or owners should refuse or neglect to kill said dog or dogs upon notice as aforesaid, the said owner or owners shall be liable to the County Commissioners for said damages to the same extent as he would be liable in case of negligence or malicious destruction of property, and the said County Commissioners may in their discretion have the special officers or constables to kill said dog or dogs.

273. Any person violating or refusing to comply with any of the provisions of this sub-title shall be guilty of a misdemeanor, and upon conviction thereof before any Justice of the Peace of the county in which he resides, or in the Circuit Court of said county, shall be fined a sum of not less than five dollars nor more than twenty-five dollars or shall be imprisoned in the county jail for not more than thirty days, or shall be both fined and imprisoned in the discretion of the Court. It shall

be the duty of the State's Attorney, the Sheriff and the Constables of the several counties of the State to prosecute all persons found violating the law by refusing to comply with its provisions. Provided that nothing in this sub-title shall apply to the City of Baltimore.

SECTION 4. *And be it enacted*, That Sections 165 to 172, inclusive, of Article 81 of the Code of Public General Laws of Maryland (1924), title "Revenue and Taxes," sub-title "State Auditor," be and they are hereby re-enacted as Sections 45 to 53, inclusive, of Article 19 of said Code, title "Comptroller," sub-title "State Auditor," to read as follows:

The sections of Article 81 as to the State Auditor really have no place in that article, as they relate only remotely and indirectly to taxation. They are therefore transferred to Article 19, entitled "Comptroller," under a sub-title of "State Auditor," where they really belong.

State Auditor.

45.. There shall be a State Auditor and two Deputy State Auditors, all to be appointed by the Governor, who shall be assigned to the Division of Financial Review and Control, shall take the oath prescribed by the Constitution, and shall hold their offices for four years from the date of their appointment and qualification and until the appointment and qualification of their successors, their terms beginning on the first Monday of May succeeding their appointment, except that the said officials now in office shall hold office until the first Monday of May, and until their successors shall qualify. The State Auditor shall receive a salary of \$3,600 per annum, and each Deputy State Auditor shall receive the salary provided in the Budget. The State Auditor and the Deputy State Auditors shall each give a bond to the State of Maryland in the penalty of twenty-five hundred dollars (\$2,500), conditioned upon the faithful performance of their duties, the surety to be approved by the Comptroller. The State Auditor shall appoint such assistants, at such salaries as he may deem necessary, subject to the approval of the Comptroller and to the provisions of the budget.

The State Auditor and his Deputies, under the supervision and direction of the Comptroller, shall have and exercise all the rights, powers, duties, obligations and functions conferred upon him or them by law.

46. The Governor shall appoint a Deputy State Auditor, in addition to the ones provided for in the preceding section. Such Deputy State Auditor now in office shall hold office until the first Monday in May, 1932, after which time he shall be appointed and hold office in the same manner and for the same term, as provided for the other Deputy State Auditors appointed by the Governor in the preceding section. Said Deputy shall receive such salary as may be provided in the budget, and in addition thereto shall receive his necessary travelling expenses. He shall be subject to all the provisions of this sub-title relative to Deputy State Auditors and in addition thereto shall perform the following duties:

Said Auditor shall audit the books of the various oyster packers, crab and clam shippers and fish dealers, including any catchers of the above seafoods, who may ship direct, for the purpose of ascertaining the total number of bushels of oysters caught within the waters of the State of Maryland, the number of gallons shucked and shipped, the pounds of crabs and crab-meat, quantities of soft crabs and clams, quantities of each kind of fish, and also the quantity in bushels or gallons of oysters that are purchased from points out of the State, and shall file with the Conservation Department weekly reports showing the result of such audit.

In order to enable said Auditor to secure the information required, all persons engaged in the pursuits mentioned in the preceding paragraph shall keep books, statements and accounts, and all such books, statements and accounts shall be open to inspection by said Auditor at all times.

Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100, nor more than \$500, and shall be adjudged in contempt of court until he complies therewith. All monies arising from fines

collected under this section shall be remitted to the Comptroller for credit of the Conservation Fund.

47. The State Auditor, with the aid of the Deputy State Auditors and the assistants, shall on or before the first day of December in each and every year make an examination of the books, accounts and reports of all Clerks of Courts, Register of Wills, Sheriffs, State's Attorneys, and all Collectors of State Taxes of the State of Maryland, including the City of Baltimore, and also all county treasurers and fee officers, and the books and accounts of the several boards of County Commissioners and of the several county treasurers and collectors, in so far as they affect the collection of State taxes, or the assessable basis upon which State taxes are levied. He shall also, with the aid of the Deputy State Auditors, and the assistants, on or before the first day of December in each and every year examine the books and accounts of the State Tobacco Warehouse, and such other books and accounts of State officers, departments, boards, commissions or institutions not herein enumerated as the Comptroller may direct. He shall also, with the aid of the Deputy State Auditors and the assistants, on or before the first day of December in each and every year make an examination of the books and accounts of all institutions in the State receiving State aid. He or the Deputy State Auditor shall personally visit all of the aforesaid offices and institutions at least once a year, and oftener, if in his judgment it is necessary to do so. The State Auditor shall on or before the first day of December in each year, and also at such other time and times as may be desirable, make a full and detailed report in writing to the Comptroller of the result of his examination of the books and accounts of the offices, departments, boards, commissions and institutions so examined by him. It shall be his duty in such reports to make suggestions as to changes in the conduct of such offices and institutions, and in the method of keeping the books and accounts in the offices and institutions examined by him; and with respect to the adoption of uniform systems of account-

ing by such offices and institutions; and also as to changes in the form of the reports made by said officers to the Comptroller. It shall also be the duty of the State Auditor to report all violations of the law and of the orders of the Comptroller in the conduct of such offices and institutions, and in the keeping of the books and accounts of the offices and institutions examined by him, to the Comptroller, and to make such suggestions as to amendments of the laws of the State as he may deem advisable to protect the interests of the State. The Comptroller is authorized and directed, either upon such reports so made to him by the State Auditor or upon his own initiative, to order and direct such officers and institutions to adopt and follow such method of conducting their offices and institutions, or of keeping books and accounts, or to adopt such uniform systems of accounting, or to make such form of reports, as the case may be, as the said Comptroller may deem proper and advisable and may prescribe. And in case it shall at any time appear that any officer whose accounts shall have been examined by the State Auditor is in default to the State for any sums or sums of money, it shall be the duty of the Comptroller forthwith to direct the Attorney General to bring action in the name of the State against such officer and his bond, if any, to recover said money so due to the State, as aforesaid. The Comptroller is authorized and empowered to prescribe a uniform fiscal year for all State offices, officers, departments, boards, commissions and institutions, and for all institutions in the State receiving State aid, and by his order to require the said State offices, officers, departments, boards, commissions and institutions, and institutions receiving State aid, to make and keep their books, accounts, statements and reports in accordance therewith.

48. The Comptroller shall at any time be entitled to call upon the State Auditor to investigate, check, itemize and audit any and all claims, vouchers, and statements of expenditures or disbursements presented to the Comptroller by, and made or claimed to have been made by or on behalf of any officer, depart-

ment, board, commission or institution of this State, and it shall be the duty of the State Auditor forthwith to make such investigation, and to report the results thereof to the Comptroller as soon as possible.

49. The State Auditor is hereby authorized and empowered to require the production before him of the books and accounts of the said officers and to examine upon oath any officer whose office he is hereby authorized to examine touching the affairs thereof, or to examine upon oath any other person as a witness who he may be advised has important information in regard to the conduct of such office. He shall have authority to issue process compelling such witness to attend before him, which shall be directed to the sheriff of the county or Baltimore City, where such witness may be found, and it shall be the duty of such sheriff to serve such process promptly; and the cost of the same shall be paid by the State. Any such officers who shall refuse to allow an examination of all the books and accounts of their offices, and any witness duly served with process as aforesaid, who shall refuse or neglect to appear before the State Auditor or shall refuse to answer upon oath touching the conduct of such offices, or as to the books and accounts of said offices, shall, on indictment and conviction thereof, be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000,00) in the discretion of the Court; provided, however, that the examination of the books shall be made in the offices of the different officers whose books are to be examined, and the Deputy State Auditor under the direction of the State Auditor shall have the same power as herein enumerated for the State Auditor.

50. In case the State Auditor shall fail to make the annual report herein provided for, or shall in other respects wilfully fail or neglect to perform the duties herein provided for, he may be removed from office by the Governor. In the event of the death, resignation, refusal to act or removal of the State Auditor or Deputy State Auditor the Governor shall have the authority to fill such vacancy.

51. All institutions in this State receiving State aid shall at all times keep their books and accounts open to inspection by the State Auditor or Deputy State Auditors or assistants at any time he or they apply for examination of the same. They shall also furnish an account upon demand showing receipts of State aid and disbursements of money received from the State. It shall be unlawful for any institution to receive any appropriation or aid from the State, or any part thereof, unless and until such institution fully complies with any order or orders which the Comptroller may make or prescribe under the authority of Section 47 of this article, and with any and all other requirements of law; and the Comptroller shall not draw his warrant for the payment of any such appropriation, or part thereof, to any such institution, unless and until the State Auditor reports to him that such institution has fully complied with any such order or orders.

52. Any Clerk of Court, Register of Wills, Sheriff, State's Attorney or Collector, any County Treasurer or fee officer, and the members of any board of county commissioners or any county treasurer or collector, and any officer of the State Tobacco Warehouse, or of any department, board, commission or institution embraced within the provisions of Section 47 of this article, who shall knowingly fail and refuse to comply with any order or orders which the Comptroller may make and prescribe under the authority of said section, with respect to his office or institutions, or who shall knowingly fail and refuse to comply with any other provision of this law, shall be guilty of a misdemeanor, and shall be subject to a fine of not less than fifty dollars, nor more than five hundred dollars, or to imprisonment for not less than thirty days, nor more than six months, or both, in the discretion of the Court, for each and every such offense.

SECTION 5. And be it enacted, That Sections 39, 165, 198, 259 and 421 of Article 23 of the Code of Public General Laws of Maryland (1924), be and they are hereby repealed and re-enacted with amendments so as to read as follows:

39. Any Corporation of this State, heretofore or hereafter incorporated, except a banking, safe deposit, trust or loan corporation, may create one or more classes of stock without any nominal or par value, with such preferences, voting powers, restrictions and qualifications thereof not inconsistent with law as shall be expressed in its charter. Stock without par value which is preferred as to dividends or as to its distributive share of the assets of the corporation upon dissolution may be made subject to redemption at such times and prices as may be determined in such charter. In the case of stock without par value which is preferred as to its distributive share of the assets of the corporation upon dissolution, the amount of such preference shall be stated in the charter. In any case in which the par value of the shares of stock of a corporation is required to be stated in a certificate of incorporation, articles of amendment, agreement of consolidation or any other paper, it shall be stated, in respect of shares without par value, that such shares are without par value, and when the amount of such stock authorized, issued or outstanding is required to be stated, the number of shares thereof authorized, issued or outstanding, as the case may be, shall be stated, and it shall also be stated that such shares are without value. [For the purpose of the bonus tax and annual franchise tax imposed by the laws of this State, but for no other purpose, such shares shall be presumed to be of the par value of one hundred dollars each.] For the purpose of any rule of law or of any statutory provision, (except as in this section otherwise provided) relating to the amount of such stock issued, the amount of such stock issued shall be taken to be the amount of money or the actual value of the consideration (fixed by the board of directors or by the charter in the manner provided by law, as the case may be) for which such stock shall have been issued. In any case, however, in which stock having a par value shall have been issued with stock without par value for a particular consideration, in determining the amount of the stock without par value issued therefor, the par value of such stock having a par value shall first be deducted from the amount of money or actual value

of the consideration determined as aforesaid, and the excess thereof, if any, shall be taken to be the amount of stock without par value so issued. The number of shares of such stock may be increased or decreased in the manner and subject to the conditions provided in Sections 28 to 32, inclusive, of this article. The amount of such stock issued may also be reduced in the manner and subject to the conditions provided in said sections for the reduction of the par value of shares of stock. All other provisions of law relating to stock having a par value, so far as the same may be legally, necessarily or practicably applicable, shall apply to and govern stock without par value.

The words in brackets are stricken out because they are covered in the new Sections 133 and 136 of Article 81.

165. The payment of the unpaid installments and the premium on the share or shares so purchased or redeemed, with interest on the money paid therefor as aforesaid, and all fines and penalties incurred in respect thereof by any member, shall be secured to such corporation, by mortgage on real or leasehold property, or by the hypothecation of stock of such corporation held by such member or by judgment of a court of law or by a justice of the peace or by a decree of a court of equity all as may be provided in the articles of association or by-laws; but in case of hypothecation of stock no greater sum of money shall at any time be drawn out by any member than shall have been already paid in by him on all his shares at the time of said hypothecation, [and any such mortgage and the mortgage debt created thereby, and any such judgment or decree and the shares of stock of any such corporation and of all building associations are declared to be exempt from taxation to the extent of the investment of such corporation in mortgages, whether said mortgages be building association mortgages or ordinary mortgages and in judgments, decrees and loans on hypothecated stock the property so mortgaged to the corporations being taxed in the hands of the mortgagor.] *and all homestead or building associations organized under the Laws of this State are hereby prohibited from investing in any other manner than*

in cash, fixtures, or loans on hypothecated stock of such association, judgments or decrees for payment of money received by courts of this State, mortgages on real or leasehold estates situate in this State and bonds of the United States and of this State.

The words in brackets are stricken out because they relate to taxation and are covered by Section 7(17) of the proposed new Article 81. The words in italics are inserted because they are now in substance contained in Article 81, Sec. 165, which is repealed; and as they do not relate to taxation, it is not deemed proper to embody them in the new Article 81.

198. The capital stock of such company shall be divided into shares of fifty dollars each, and consist of such sum as may be named in the certificates; such shares shall be regarded as personal property, *and* shall be subject to execution at law. [and to taxation as other personal property.]

The words in brackets are stricken out because they go back to a time when shares of stock in railroad companies were subject to taxation in the same manner as bank shares, so that the clause has long since ceased to have any effect.

259. Every railroad company of this State, heretofore or hereafter incorporated, may in its discretion and from time to time, make use of any motive power or motive powers, on the whole or any part or parts of its road, for the purpose of operating its road or any part or parts thereof, or for the movement of all or any of its cars or trains; [provided, however, that every railroad company changing its motive power, in whole or in part, from steam to electricity, or other motive power, shall continue to be subject to all the provisions of the laws of this State relating to the taxation of railroad companies whose roads are worked by steam power, to all intents as if no such change of motive power had been made, and that every railroad company changing its motive power, in whole or in part, from electricity or other motive power other than steam, to steam, shall become subject to all the provisions of the laws of this State relating to the taxation of railroad companies whose roads are worked by steam power, and] provided, however, that the provisions

of this section shall not authorize any railroad company to operate its cars or trains by steam or other power along the streets, of any city or town, or along any public road, without the consent of the proper municipal or county authorities.

The words in brackets are stricken out because they are covered by the new Article 81, Sec. 2(20).

421. The original articles of incorporation of an association organized under this sub-title, or a true copy thereof verified as such by the affidavits of two of the signers thereof shall be filed with the State Tax Commission who shall record and transmit a copy in all respects as provided in Section 6 of this Article for other corporations. [but such cooperative associations shall be exempt from the bonus tax provided in Section 106 of this article.]

The words in brackets are stricken out because co-operative associations are not within the terms of the bonus tax as now proposed to be enacted by the new Article 81, Sec. 133.

SECTION 6. *And be it enacted*, That Section 7 of Article 25 of the Code of Public General Laws of Maryland (1924), entitled "County Commissioners," be and it is hereby repealed and re-enacted with amendments so as to read as follows:

7. They shall meet in their respective counties within sixty days after their election and qualify by taking the oaths required by law, and shall meet once a quarter, and as much oftener as the necessities of the county may in their judgment require; [provided, however, that the meeting to make the annual levy of taxes shall be held previous to the first day of July in each year.]

The words in brackets are eliminated because they are inconsistent with Section 29 of the new Article 81, which provides that the levy shall be made annually as soon after October 1st as practicable and in any event, before the following January 1st.

SECTION 7. *And be it enacted*, That Section 648 of Article 27 of the Code of Public General Laws of Maryland (1924), entitled "Crimes and Punishments," be and it is

hereby repealed and re-enacted with amendments so as to read as follows:

648. The board of managers shall provide a suitable building within the State, and establish such regulations respecting the religious and moral education, training, employment, discipline and safe keeping of its inmates as may be deemed expedient and proper; [and the grounds and buildings which may be erected thereon for the said Industrial Home for Colored Girls shall be exempt and free of all taxes] no public streets, lanes or alleys, road or railroads or canals of any kind shall be opened through the lands of the said institution, when the same are exclusively used or appropriated for the purpose of its incorporation, except with the consent of the board of managers.

The words in brackets are omitted because they are covered by Section 7(19) of the new Article 81. They are, moreover, probably now unnecessary as the Industrial Home for Colored Girls is now a State institution. They were originally part of the charter of that institution, and probably ought never to have been repeated in the Code; but at all events if they have any special effect as a charter provision as distinguished from a provision of the public general laws, such operation will be unaffected by this repeal. They are repealed as part of the Code and not as part of the charter.

SECTION 8. *And be it enacted*, That Sections 39 and 181 of Article 48-A, entitled "Insurance," of the Code of Public General Laws of Maryland (1924), be and they are hereby repealed and re-enacted with amendments so as to read as follows:

39. *Tax on Premiums.* Every [foreign] insurance company, *doing business in this State*, including those excepted by Section 35 from the payment of license fees, shall pay annually to the insurance commissioner a tax on the gross premiums written or renewed in this State, or on account of residents thereof, during the preceding year, without deduction for any cause whatever, except as herein provided, which said tax shall be at the rate of 2 per cent., for companies writing fire or marine

insurance, and at the rate of $1\frac{1}{2}$ per cent. for all other such companies. A report under oath of the premiums so written or renewed during the preceding year must be made to the insurance commissioner in January of each year by the chief accounting officer or officers of such company. The insurance commissioner, in computing taxes upon premiums collected in this State by insurance companies, may allow credit for return premiums on cancelled policies and for premiums on reinsurance effected in companies authorized to do business in this State.

The word in brackets is stricken out in order to make clear that domestic as well as foreign insurance companies are subject to the premium tax. The tax is now collected from them, but it is doubtful whether they are properly subject thereto. Perhaps the companies affected have not contested the collection of the tax because if Maryland discriminates against foreign companies in this matter the domestic companies would be subject to retaliatory taxes in other states which would be more burdensome than the payment of the Maryland tax.

181. **[Exemption from Taxation.]** Every fraternal beneficiary association organized or licensed under this Article is hereby declared to be a charitable and benevolent institution, [and all of its funds shall be exempt from all and every State, county, district, municipal and school tax, other than taxes on real estate and office equipment.]

The words in brackets are eliminated because they are covered by Section 7(4) of the new Article 81.

SECTION 9. *And be it enacted*, That Section 41 of Article 77 of the Code of Public General Laws of Maryland (1924), entitled "Public Education," be and it is hereby repealed and re-enacted with amendments so as to read as follows:

41. All the property, estate, effects, money, funds, claims and state donations heretofore vested by law in the public school authorities of any county, for the benefit of public, primary, free or high schools, are transferred to and vested in the county boards of education, and their successors in office. The county boards

of education are authorized, empowered, directed and required to maintain a uniform and effective system of public schools throughout their respective counties. Real and personal estate granted, conveyed, devised or bequeathed for the use of any particular county or school district shall be held in trust by the county board of education for the benefit of such county or school district, [and such grants and bequests shall be exempt from all State and county taxes. Moneys invested in trust for the benefit of the public schools of any county or city shall be exempt from State, county or local tax.]

The words in brackets are omitted because the exemption is now covered by Sections 7(1) and 105 of the new Article 81, *supra*.

SECTION 10. *And be it enacted*, That Section 205 of Article 81 of the Code of Public General Laws of Maryland (1924), title "Revenue and Taxes," sub-title "Sinking Fund," be and it is hereby re-enacted without change as an additional section to be known as Section 38 of Article 95 of said Code of Public General Laws, title "Treasurer," to read as follows (such re-enactment to have the effect of a mere continuation in force of said repealed section) :

38. All monies remaining in the treasury of the State at the close of each fiscal year, in excess of one hundred and fifty thousand dollars, and of the sums required to meet the interest accruing due upon the public debt, and the expenses of the State government defined by law shall be held by the treasurer of the State to the credit of the general sinking fund of the State, and shall be invested by the treasurer in the overdue obligations of the State; and when the same are not procurable in the obligations of the State not yet matured, or in the securities issued by the United States, or in such other productive stocks or bonds as the treasurer, the governor and comptroller concurring may consider safe and reliable; and the sum of one hundred thousand dollars, which is directed to be set apart in each year for the augmentation of the sinking fund, may be invested in the same manner and under the same

conditions by the said treasurer; and the investment so made shall be passed to the credit of the sinking fund.

This section, which is repealed by the general repeal of Article 81, is re-enacted as a part of Article 95, entitled "Treasurer," rather than as a part of the new Article 81, because it has no relation to taxation.

SECTION 11. *And be it enacted*, That Section 149 of Article 81 of the Code of Public General Laws (1924), be and it is hereby re-enacted without change as Section 51 of Article 9 of said Code, title "Attachments," sub-title "Lien of State," to read as follows:

51. All lands and tenements belonging to any person indebted to this State, after the commencement of a suit therefor against him shall be liable to execution on any judgment or decree which may be rendered against him in such suit, in whosoever hands or possession the said lands or tenements may be found; but where the debtor hath granted or may hereafter grant any road, way or easement in or over any lands liable as aforesaid, the rights accruing through or by such grant shall not be affected by the preceding provisions of this section; provided, however, that all existing rights of the State now vested shall not be in any way diminished or released, except as herein provided.

This section, as it is not confined to suits for taxes but covers any suit instituted by the State, has no proper place in Article 81. It is therefore, re-enacted as a part of Article 9, entitled "Attachments" where it is at least more appropriate.

SECTION 12. *And be it enacted*, That if any section of this Act or any provision of any section of this Act, or the application thereof to any person or circumstances, or section of the Code of Public General Laws enacted or re-enacted or amended by this Act, or any provision of any such section or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and of said section of the Act or of said section of the Code of Public General Laws and the application thereof to other persons or circumstances

shall not be affected thereby; and if any exemption or exception from any tax is held invalid, the tax shall apply without such exemption or exception.

SECTION 13. *And be it enacted*, That all acts and parts of acts, whether Public General, Public Local, or Special, and all charters or ordinances of any city or resolutions of the County Commissioners, inconsistent with the provisions of this Act, be and they are hereby repealed to the extent of such inconsistency, provided that all laws, charters, ordinances and resolutions repealed by this Act shall nevertheless remain in force for the assessment and collection of any tax incurred, or the enforcement of any penalty incurred, or the punishment of any crime committed, prior to the first day of June, 1929; provided further, that nothing herein contained shall affect any contract by way of exemption from taxation or otherwise the obligation of which the State is precluded from impairing by the Constitution of the United States.

SECTION 14. *And be it enacted*, That this Act shall take effect on June 1, 1929.

